SENATE

SATURDAY, *March 13, 1926*

(Legislative day of Thursday, March 11, 1926)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. JONES of Washington. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Ferris	Lenroot	Sheppard
Bingham	Fess	McKellar	Shipstead
Blease	Fletcher	McLean	Shortridge
Borah	Frazier	McNary	Simmons
Bratton	George	Mayfield	Smoot
Brookhart	Goff	Means	Stanfield
Broussard	Gooding	Neely	Stephens
Bruce	Greene	Norris	Swanson
Butler	Harreld	Nye	Trammell
Cameron	Harris	Oddie	Tyson
Capper	Harrison	Overman	Wadsworth
Caraway	Heflin	Phipps	Walsh
Copeland	Howell	Pine	Warren
Couzens	Johnson	Pittman	Watson
Cummins	Jones, N. Mex.	Ransdell	Wheeler
Dale	Jones, Wash.	Reed, Mo.	Williams
Deneen	Kendrick	Robinson, Ark.	Willis
Dill	King	Robinson, Ind.	
Edge	La Follette	Sackett	

The VICE PRESIDENT. Seventy-four Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had agreed to the amendment of the Senate to each of the following bills:

H. R. 8316. An act granting the consent of Congress to the State Highway Commission of the State of Alabama to construct a bridge across the Coosa River near Wetumpka, Elmore County, Ala.;

H. R. 8382. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Aliceville, on the Gainesville-Aliceville road, in Pickens County, Ala.;

H. R. 8386. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Elk River, on the Athens-Florence road, between Lauderdale and Limestone Counties, Ala.;

H. R. 8388. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Scottsboro, on the Scottsboro-Fort Payne road, in Jackson County, Ala.;

H. R. 8389. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Whitesburg Ferry, on Huntsville-Lacey Springs road between Madison and Morgan Counties, Ala.;

H. R. 8390. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Jackson, on the Jackson-Mobile road, between Washington and Clarke Counties, Ala.;

H. R. 8391. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River, on the Butler-Linden road, between the counties of Choctaw and Marengo, Ala.;

H. R. 8463. An act granting the consent of Congress to the construction of a bridge across the Red River at or near Moncla, La.;

H. R. 8511. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River, near Gainesville, on the Gainesville-Eutaw road, between Sumter and Green Counties, Ala.;

H. R. 8521. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River near Childersburg, on the Childersburg-Birmingham road, between Shelby and Talladega Counties, Ala.;

H. R. 8522. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, near Fayetteville, on the Columbia-Sylacauga road, between Shelby and Talladega Counties, Ala.;

H. R. 8524. An act granting the consent of Congress to the highway department of the State of Alabama to reconstruct a bridge across Pea River, near Samson, on the Opp-Samson road, in Geneva County, Ala.;

H. R. 8525. An act granting the consent of Congress to the highway department of the State of Alabama to reconstruct a bridge across Pea River, near Geneva, on the Geneva-Florida road, in Geneva County, Ala.;

H. R. 8526. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Choctawhatchee River, on the Wicksburg-Daleville road, between Dale and Houston Counties, Ala.;

H. R. 8527. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Pea River at Elba, Coffee County, Ala.;

H. R. 8528. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, on the Clanton-Rockford road, between Chilton and Coosa Counties, Ala.;

H. R. 8536. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Tennessee River, near Guntersville, on the Guntersville-Huntsville road, in Marshall County, Ala.;

H. R. 8537. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, near Pell City, on the Pell City-Anniston road, between St. Clair and Calhoun Counties, Ala.; and

H. R. 9095. An act to extend the times for commencing and completing the construction of a bridge across the St. Francis River near Cody, Ark.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker of the House had affixed his signature to the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 1343. An act for the relief of soldiers who were discharged from the Army during the World War because of misrepresentation of age;

H. R. 60. An act for the purpose of reclaiming certain lands in Indian and private ownership within and immediately adjacent to the Lummi Indian Reservation, in the State of Washington, and for other purposes;

H. R. 5043. An act granting the consent of Congress to the Midland & Atlantic Bridge Corporation, a corporation, to construct, maintain, and operate a bridge across the Big Sandy River between the city of Catlettsburg, Ky., and a point opposite in the city of Kenova, in the State of West Virginia; and

H. J. Res. 197. A joint resolution to regulate the expenditure of the appropriation for Government participation in the National Sesquicentennial Exposition.

LETTER CRITICIZING SENATOR BLEASE

Mr. BLEASE. Mr. President, I send to the desk an article which I would like to have read.

The VICE PRESIDENT. Without objection, the clerk will read as requested.

The legislative clerk read as follows:

ON WITH THE DANCE

To the EDITOR CHICAGO DEFENDER:

I am a northern white Yankee and I am married to a colored lady, am proud of her, and I intend keeping her. There are hundreds of colored men here in Michigan who have white wives and love them and are doing fine, and intend keeping them; but I can't see where a certain ingrate from South Carolina who has introduced a bill in Congress to prevent it—intermarriage—gets on.

I am a northern Yankee, my forefathers have been, and believe that the best way to curb the like of such sewer disposals as COLE BLEASE is to give them plenty of shot and cannon music. I am the employer of colored help for a company here, and must say matters would not be so hard for you colored people if you would sacrifice a few lives and give these rebels a taste of northern medicine. Too long have we tolerated the Ku-Klux and such, and we know that nothing good comes from the South. If I were to seek the devil's playground, Dixie would be the only place I would find it.

Yes; I am a northerner, and what we did in 1861 can be done again. We are slow in our action of redress, but it is time that those uncivilized beasts be curbed, and if the clan of men like COLE BLEASE still persists we shall take devious means to advertise the South to the four corners of the world. I am a white man, but Lord deliver me from a southern white rebel.

You colored people brace up. If necessary I'll advertise the scandals of the South to all the world, and I can do it. I don't believe in seeing men treated as you are. I have the money and can, if necessary, placard every news stand in Europe, Asia, and Africa with literature that will do the South more harm than it is able to right in a thousand years.

And, COLE BLEASE, the quicker the earth receives your old, vile, dirty, polluted, ill-generated body the quicker a thousand nations will smile; and we long to take a good laugh. A northern white Yankee.

W. S. PAYNE.

DETROIT, MICH.

Mr. BLEASE. I would like to have the addendum read.

The legislative clerk read as follows:

The above article was printed in the Chicago Defender, the largest negro paper in the United States, Saturday, February 13, 1926. (Used without permission.)

Additional copies may be secured free of charge from Davis Printing Co., printing, engraving, embossing, 216 North Twenty-second Street, telephone Main 6972, Birmingham, Ala.

Mr. BLEASE. I only desire at this time to have the article read. I have received several newspapers recently containing copies of the same article. I shall use it later as a basis for some remarks.

SENATOR BURTON K. WHEELER

Mr. WALSH. Mr. President, I give notice that on Monday, at the close of the routine morning business or at the most convenient time thereafter, I shall address the Senate upon the criminal proceedings instituted in the State of Montana and in the District of Columbia against my colleague, the junior Senator from Montana [Mr. WHEELER], and shall submit for the consideration of the Senate a resolution in relation thereto.

PETITIONS

Mr. WILLIS presented a resolution adopted by the Northeast Ohio Conference of the Methodist Episcopal Church, favoring a proposed amendment to the Constitution prohibiting the making of sectarian appropriations, which was referred to the Committee on the Judiciary.

Mr. CAPPER presented a resolution adopted by W. T. Sherman Post, No. 113, Grand Army of the Republic, of Concordia, Kans., favoring the passage of legislation granting increased pensions to veterans of the Civil War, their widows and dependents, which was referred to the Committee on Pensions.

He also presented a petition of sundry citizens of Cloud County, Kans., praying for the passage of legislation granting increased pensions to veterans of the Civil War, their widows and dependents, which was referred to the Committee on Pensions.

He also presented petitions of sundry citizens of Wichita and Columbus, all in the State of Kansas, praying for the passage of legislation granting increased pensions to veterans of the war with Spain, their widows and dependents, which were referred to the Committee on Pensions.

Mr. LA FOLLETTE presented petitions of members of the faculties of the University of Wisconsin and of Beloit College, Wisconsin, praying for amendment of the existing copyright law so as to include copies made by the mimeographic process as well as those made by the photoengraving process, which were referred to the Committtee of Patents.

He also presented petitions numerously signed by sundry citizens of the State of Wisconsin, praying for the passage of Senate bill 98, granting increased pensions to veterans of the Spanish War, their widows and dependents, which were referred to the Committee on Pensions.

Mr. WADSWORTH presented resolutions adopted by the New York Baptist Missionary Convention, the Genesee Annual Conference of the Methodist Episcopal Church, the Northern New York Conference of the Methodist Episcopal Church, and the New York Conference of the Methodist Episcopal Church, favoring a proposed amendment to the Constitution prohibiting the making of sectarian appropriations, which were referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

Mr. WADSWORTH, from the Committee on Military Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 1786) to equalize the pay of retired officers of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service (Rept. No. 364);

A bill (S. 2996) to validate payments for commutation of quarters, heat, and light, and of rental allowances on account of dependents (Rept. No. 365); and

A bill (S. 3037) to provide retirement for the Nurse Corps of the Army and Navy (Rept. No. 376).

Mr. McNARY, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 718) authorizing an appropriation to be expended under the provisions of section 7 of the act of March 1, 1911, entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended, reported it without amendment and submitted a report (No. 366) thereon.

He also, from the Committee on Indian Affairs, to which was referred the bill (S. 720) to amend an act of March 3, 1885, entitled "An act providing for allotment of lands in severalty to the Indians residing upon the Umatilla Reservation, in the State of Oregon, and granting patents therefor, and for other purposes," reported it with an amendment and submitted a report (No. 367) thereon.

Mr. SACKETT, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 2646) to provide cooperation to safeguard endangered agricultural and municipal interests and to protect the forest cover on the Santa Barbara, Angeles, San Bernardino, and Cleveland National Forests from destruction by fire, and for other purposes, reported it without amendment and submitted a report (No. 368) thereon.

Mr. STANFIELD, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 5961) granting certain public lands to the city of Stockton, Calif., for flood control, and for other purposes, reported it without amendment and submitted a report (No. 369) thereon.

Mr. CAPPER, from the Committee on the District of Columbia, to which was referred the bill (S. 2730) to amend section 1155 of an act entitled "An act to establish a code of law for the District of Columbia," reported it without amendment and submitted a report (No. 370) thereon.

Mr. BINGHAM, from the Committee on Military Affairs, to which was referred the bill (S. 587) for the relief of John O'Brien, reported it without amendment and submitted a report (No. 371) thereon.

Mr. JONES of Washington, from the Committee on Appropriations, to which was referred the bill (H. R. 9795) making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1927, and for other purposes, reported it with amendments and submitted a report (No. 372) thereon.

Mr. SMOOT, from the Committee on Appropriations, to which was referred the bill (H. R. 6707) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1927, and for other purposes, reported it with amendments and submitted a report (No. 373) thereon.

Mr. CAMERON, from the Committee on Military Affairs, to which was referred the bill (S. 1895) to correct the military record of George Patterson, deceased, reported it with an amendment and submitted a report (No. 374) thereon.

Mr. HARRELD, from the Committee on Indian Affairs, to which was referred the bill (S. 3538) authorizing the Secretary of the Interior to pay legal expenses incurred by the Sac and Fox Tribe of Indians of Oklahoma, reported it without amendment and submitted a report (No. 375) thereon.

Mr. BRUCE, from the Committee on Military Affairs, to which were referred the following bills, submitted adverse reports thereon, which were agreed to, and the bills were indefinitely postponed:

A bill (S. 1574) for the relief and to correct the military record of Kathryn C. Hopkins; and

A bill (S. 2129) for the relief of Henry Mathews.

ENROLLED BILL PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on to-day that committee presented to the President of the United States the enrolled bill (S. 1343) for the relief of soldiers who were discharged from the Army during the World War because of misrepresentation of age.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CUMMINS:

A bill (S. 3545) to amend an act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, and acts in amendment thereof; to the Committee on the Judiciary.

By Mr. SWANSON:

A bill (S. 3546) providing for the conveyance to the Comte de Grasse Chapter, Daughters of the American Revolution, of site of old graveyard and church in Nelson district, county of York, State of Virginia; to the Committee on Naval Affairs.

By Mr. McKELLAR:

A bill (S. 3547) to change the title of Deputy Assistant Treasurer of the United States to Assistant Treasurer of the United States; to the Committee on Banking and Currency.

By Mr. BRATTON:

A bill (S. 3548) for the relief of Joe S. Duran; to the Committee on Finance.

By Mr. GOFF:

A bill (S. 3549) for the relief of R. P. Biddle; to the Committee on Claims.

By Mr. HARRIS:

A bill (S. 3550) providing for an inspection of the Kennesaw Mountain and Lost Mountain and other battle fields in the State of Georgia; to the Committee on the Library.

By Mr. STANFIELD:

A bill (S. 3551) for the relief of William J. O'Brien; to the Committee on Claims.

A bill (S. 3552) granting an increase of pension to Theodore Hansen; to the Committee on Pensions.

By Mr. KENDRICK:

A bill (S. 3553) to provide for the storage for diversion of the waters of the North Platte River and construction of the Casper-Alcova reclamation project; to the Committee on Irrigation and Reclamation.

By Mr. HARRELD:

A bill (S. 3554) granting a pension to Emma M. Norton (with accompanying papers); to the Committee on Pensions.

By Mr. COPELAND:

A bill (S. 3555) for the relief of the Rochester Merchandise Co.; to the Committee on Claims.

A bill (S. 3556) to regulate interstate and foreign commerce in coal and to promote the general welfare dependent on the use of coal, and for other purposes; to the Committee on Education and Labor.

By Mr. DILL:

A bill (S. 3557) to authorize the construction of a bridge over the Columbia River at a point within 1 mile upstream and 1 mile downstream from the mouth of the Entiat River in Chelan County, State of Washington; to the Committee on Commerce.

By Mr. WADSWORTH:

A bill (S. 3558) authorizing appropriations for construction at military posts, and for other purposes; to the Committee on Military Affairs.

CHANGE OF REFERENCE

On motion of Mr. CAPPER, the Committee on Claims was discharged from the further consideration of the bill (S. 3363) authorizing and directing the Secretary of the Interior to examine a certain Senate report on Indian traders and to take certain action in respect thereto, and for other purposes, and it was referred to the Committee on Indian Affairs.

COASTAL LANDS IN ALABAMA, FLORIDA, AND MISSISSIPPI

Mr. TRAMMELL submitted an amendment intended to be proposed by him to the bill (S. 3224) for the disposition of certain coastal lands in Alabama, Florida, and Mississippi, and the adjustment of claims arising from erroneous surveys, which was referred to the Committee on Public Lands and Surveys and ordered to be printed.

MUSCLE SHOALS

Mr. FESS obtained the floor.

Mr. HEFLIN. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. FESS. For what purpose?

Mr. HEFLIN. I wish the Senator would yield to me for a few moments. On yesterday, when House Concurrent Resolution No. 4, with reference to Muscle Shoals, came over from the House, my friend the Senator from Tennessee [Mr. MCKELLAR] asked that it go over in order that he might look into the two amendments of the House to Senate amendments. I consented to that procedure. I would like to call up the concurrent resolution at this time in order to move that the Senate concur in the House amendments.

Mr. SMOOT. If the Senator will ask unanimous consent, I shall have no objection, but I do not want a motion made that would displace the unfinished business. I do not think there will be any objection if the Senator asks unanimous consent.

Mr. HEFLIN. I ask unanimous consent for the present consideration of the two amendments of the House to amendments of the Senate to the Muscle Shoals resolution.

The VICE PRESIDENT. Is there objection to the request of the Senator from Alabama?

Mr. FESS. Reserving the right to object to the unanimous-consent request, I recognize the importance of speedy action upon the resolution if we can have it, although I would not want to displace the unfinished business before the Senate unless it be satisfactory to the author of the bill, the Senator from Idaho [Mr. GOODING]. I wonder whether the Senator from Alabama has any idea about how much time the consideration of the Muscle Shoals matter will consume.

Mr. HEFLIN. I think it will take only a very short time. The Senator from Idaho [Mr. GOODING] gave me his consent to take up this resolution.

Mr. GOODING. I am quite willing to yield if it does not take too long to dispose of the Muscle Shoals resolution.

Mr. FESS. Then I shall have no objection.

The VICE PRESIDENT. Is there objection?

Mr. MCKELLAR. I have no objection to taking up the amendments of the House to the amendments of the Senate, but I want to ask the Senator from Alabama [Mr. HEFLIN] some questions in reference to those amendments.

Mr. SMOOT. The Senator from Tennessee does not think it will take very much time to dispose of the matter?

Mr. MCKELLAR. I do not think it will take a great while to dispose of it, but there are some matters in connection with the amendments which ought to be considered.

Mr. FESS. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. FESS. If I shall now yield to the Senator from Alabama [Mr. HEFLIN], and the amendments of the House shall be taken up and considered, will I lose the floor?

The VICE PRESIDENT. If the Senator from Ohio now yields the floor, the Chair will recognize him when the debate on the question shall have been concluded.

Mr. HEFLIN. No objection was made, Mr. President, to my request for the consideration of the House amendments.

Mr. REED of Missouri. Mr. President, before the vote is taken I wish to say a word on the concurrent resolution.

The VICE PRESIDENT. Is there objection to the consideration of the amendments of the House to the amendments of the Senate to the concurrent resolution?

There being no objection, the Senate proceeded to consider the amendments of the House to the amendments of the Senate Nos. 1 and 4 to House Concurrent Resolution No. 4 providing for a joint committee to conduct negotiations for leasing Muscle Shoals.

The amendments of the House to the amendments of the Senate are as follows:

In lieu of the matter inserted by amendment No. 1 insert the following: "or leases (but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients mixed or unmixed primarily as hereinafter provided.)"

In amendment No. 4, on page 1, line 20, strike out the period and insert the following: ": *And provided further*, That the committee in making its report shall file for the information of the Senate and House of Representatives a true copy of all proposals submitted to it in the conduct of such negotiations."

Mr. MCKELLAR. Mr. President, if I may, I desire to ask the Senator from Alabama [Mr. HEFLIN] a question. I notice on page 1, line 10, of the resolution the House of Representatives has proposed this amendment, which is embraced in parenthesis:

(but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients mixed or unmixed primarily as hereinafter provided).

I should like to ask the Senator from Alabama what that language means and what is its purpose?

Mr. HEFLIN. The language which was inserted in the Senate amendment by the House of Representatives, Mr. President, is exactly the language contained in section 14 of the McKenzie bill, which embodied the Ford offer.

Mr. MCKELLAR. Mr. President, what seems to be embodied in this language is already provided for in lines 9 and 10, on page 2, of the concurrent resolution; and I am wondering why that particular language in the Ford offer—it was a very long instrument—was singled out and made the subject of an amendment by the House of Representatives when the House was so anxious just a few days ago to have the resolution passed without any amendment and without containing this language?

Mr. HEFLIN. House bill 518, Sixty-eighth Congress, first session, referred to in the concurrent resolution, provides that there shall be manufactured "nitrogen and other commercial fertilizer, mixed or unmixed."

The House thought that if somebody leased plant No. 1 or plant No. 2 and somebody else should lease the dam it might interfere with the original purpose to make at Muscle Shoals fertilizers for the farmers. So the House of Representatives, which has gone on record three times in favor of making fertilizers at Muscle Shoals, took this precautionary step to safeguard the interests of the farmer and to emphasize the necessity for making fertilizers for him.

Mr. McKELLAR. What I want to know is how that language safeguards the manufacture of fertilizers for the farmer. The amendment proposed by the House of Representatives reads:

> The production of nitrates and other fertilizer ingredients, mixed or unmixed, primarily as hereinafter provided.

I do not find any provision to that effect following the amendment. It would apparently look as if it were intended that whoever got the plant might manufacture certain chemicals there, and that the manufacture of those chemicals, which might or might not be used for fertilizer, would be a compliance with the lease provisions which are intended to be inserted.

Mr. HEFLIN. Oh, no, Mr. President. The gentlemen who put in this language have been for the farmer all the way through; they have tried to make sure the making of fertilizers at Muscle Shoals.

Mr. McKELLAR. I am wondering whether they are for the farmer, as the Senator from Alabama has been, or whether they are really for the farmer in this case. I am just wondering about that.

Mr. HEFLIN. I am right where I have been all the time. My friend from Tennessee can not say quite as much.

Mr. McKELLAR. I do not know. I think the Senator from Alabama is in a very different situation from what he previously was. My recollection is that he was declaiming mightily for the farmers; but the other day when I asked him what he would do if the Fertilizer Trust got hold of the plant and secured a lease, the Senator was strangely silent as to what his attitude would be. However, that is neither here nor there, Mr. President.

I wish to say in reference to this amendment that I am opposed to it. I am going to vote against it if I shall have the opportunity to vote against it, and I suppose I shall. However, I understand that those who were in charge of the resolution the other day when I was necessarily called away have no objection to the amendment. Therefore, I am not going to override their judgment in the matter.

I merely wish to repeat here that I think there is nothing in the amendment except possibly it makes it more involved. There may be a joker in it, but if there is I suppose it will be disclosed before the lease comes in. I wish to ask the Senator from Alabama, in this connection, when the lease shall come back, do I understand, and does the Senator understand, that the lease or leases are to be referred to the Committee on Agriculture and Forestry for appropriate action?

Mr. HEFLIN. I do not know, Mr. President. The lease or leases have got to be referred to the Senate and the House, and all the bids will be filed by the joint committee.

Mr. McKELLAR. I understand that; but what I want to know is, Are these bids to have the consideration of the appropriate committees in both the House and the Senate?

Mr. HEFLIN. I do not know.

Mr. McKELLAR. The Senator ought to know something about what is intended.

Mr. HEFLIN. The House and the Senate will determine that matter when the committee shall have rendered its report.

Mr. McKELLAR. I take it that it is beyond controversy that when the lease or leases shall be reported to the Senate they will be referred to the appropriate committee by the Senate.

Mr. HARRISON. Mr. President, may I ask the Senator from Tennessee why should the lease or leases go to a regular committee of the Senate? Here we are designating a joint committee of the two Houses to investigate the proposition and do the work of the regular committee of the Senate. That committee makes its recommendation, and then it will be for the Senate and House to consider the proposal. If we have got to wait for the joint committee to make its recommendations and then have them referred to the regular committee of the Senate and the regular committee of the House, we shall never get any action upon this proposition at all.

Mr. SWANSON. Mr. President, of course if the committee shall report any bill, as the resolution provides, the bill will come here under the rules of the Senate, subject to the will of the Senate.

Mr. McKELLAR. Will it not be referred to any committee?

Mr. SWANSON. It will not be necessary that it should be referred to a committee unless the Senate wishes to take that course. The Senate can proceed to consider measures that are reported here by a special joint committee.

Mr. McKELLAR. Mr. President, I take it that it is beyond controversy that any proposal which may be submitted should go to the appropriate committee. I am astonished to think that anyone would contend for a moment that a lease that is brought here under this resolution would be considered without being referred for consideration to the appropriate committee.

Mr. SWANSON. The proper time to make that contention or argument is when the bid comes here.

Mr. McKELLAR. I understand that, but I wanted to have some understanding about this matter beforehand, if it were possible to do so. I think we are voting for a cat in a bag, and I am opposed to voting for cats in bags. I should like to know what I am voting for.

Mr. CARAWAY. Mr. President, will the Senator permit me to interrupt him?

Mr. McKELLAR. Yes.

Mr. CARAWAY. If I were to say what I really think, the facts are probably I might be thought to be discourteous, but the action of the House in concurring accepts the amendments of the Senate absolutely as they are written. The action of the House does not change one single thing. For reasons that it is not worth while to go into, they wanted to concur with an amendment; that is all. I hope, therefore, that the Senate will concur in the suggested amendment of the House, because the resolution is exactly that which was adopted by the Senate by an overwhelming vote.

Mr. McKELLAR. Mr. President, may I ask the Senator from Arkansas if he is convinced that the particular amendment to which I have referred does not in any way alter the resolution as it was adopted by the Senate?

Mr. CARAWAY. It absolutely does not alter the resolution as it was adopted by the Senate.

Mr. REED of Missouri. Mr. President, I could not be present in the Senate at the time when the concurrent resolution was originally adopted by the Senate, and I have no desire to delay action upon it. I simply wish to put of record my position.

We were told when the Government was asked to take over Muscle Shoals and improve it that there was there a water power of incalculable value; that the construction of the works and the harnessing of the power would advantage directly a large section of the United States, and all of the United States would be indirectly benefited. If the statements of fact made at that time were accurate, then we are dealing with one of the very largest propositions of a domestic character that will come to our attention.

I am opposed on principle to Government ownership and operation of business concerns; but there is no rule that can be invariable in its application or, to state it differently, so invariable that it can be applied to every set of facts. My opinion is that we would never have had or would not for a great many years have had successful navigation on the Mississippi River if it had been left to private enterprise; that we would never have had successful improvement of our rivers and our great harbors if the work had been left to private enterprise, and likewise we would never have had the improvements which have taken place on the Great Lakes if the project had been left to private enterprise. While I understand perfectly that certain other principles intervene, still the difficulty of conducting private business can be said to exist with reference to such improvements and with reference to the particular business now being conducted on some of our great rivers.

While the illustrations I have given are not absolutely in point, I think they have a bearing upon the pending question. I think if we lease the works at Muscle Shoals the benefits which we were told will inure to the people of the United States will never come, except in a very modified way, and perhaps no special benefit whatever will accrue.

The Government has invested an enormous sum of money at Muscle Shoals. I think it ought to complete the works there; that it ought to employ the best engineering talent that can be obtained to manage them; and that the Government ought to conduct them until such time as private parties can come forward with a proposition which we know is sound.

Under this concurrent resolution, as I read it, leases can be entered into that have all of the defects that existed in the propositions which have been heretofore debated and substantially condemned. I am opposed to throwing away or frittering away this great investment of our Government, and I am also opposed to any proposition which demands that for 50 years this great investment shall be devoted to making fertilizer or nitrates or any other particular product, for the very simple reason that it may not be five years of time until some method of solution of the entire fertilizer problem will have been discovered; and, in my judgment, leases made for 50 years under these circumstances are unwise and improvident.

I simply desire to state my position. I believe this is a surrender of a large part of the value of this huge investment. I believe it to be unwise and unsound. I do not expect what I have said here to stop the passage of this measure for a moment. I simply want the RECORD to show my opposition to it.

Mr. HEFLIN. Mr. President, I move that the Senate concur in the House amendments.

Mr. HARRISON. Mr. President, there seems to be some question here as to what should be the procedure of the Senate when these proposals are returned. It seems to me that in considering and passing upon this concurrent resolution there should be no misgivings as to its terms.

The Senator from Tennessee [Mr. MCKELLAR] evidently has the impression that when this joint committee makes its report, on or before the 26th of April, with its recommendations and its appropriate bill, the bill then is to be referred to the Agricultural Committee, and that the Agricultural Committee then will take weeks, perhaps, to consider it, and then it will be brought back to the Senate for consideration.

Mr. MCKELLAR. Mr. President——

Mr. HARRISON. I do not interpret this concurrent resolution in any such way. I think the concurrent resolution is plain with respect to that matter. I think the two Houses of Congress in passing this resolution intend that a joint committee be appointed, clothed with the authority to make a full investigation of this subject, consider all the bids that may be proposed, come to a conclusion as to which is the best, and then to write their recommendation, with an appropriate bill for the consideration of both branches of the Congress. Certainly, if that is not the intention, we are doing an idle thing in the appointment of this joint committee. The appointment of the joint committee is intended to supersede and do the work of the appropriate standing committees of the two Houses. Any other construction means a veto of the action of the joint committee—a reconsideration by another committee of its action.

Mr. MCKELLAR. Mr. President, will the Senator yield?

Mr. HARRISON. Yes; in a moment.

Mr. HEFLIN. Mr. President, I hope this will not lead to any controversy. If it does, I shall have to withdraw this matter.

Mr. HARRISON. I do not care whether it leads to any controversy or not. This is a very important question, and there is no reason why we should have any doubt about its provisions now.

Mr. NORRIS. Mr. President, may I say, with the permission of the Senator, that I do not want the Senator from Alabama hereafter to say that those who were opposed to the original resolution, like myself, are taking the time of the Senate. I had no intention of saying a word. I do not care whether this motion is agreed to or whether it is not agreed to; and I am not finding fault with the Senator from Mississippi. I am not objecting to his debating it as long as he wants to; but I simply want to say to the Senator from Alabama that if this matter is debated along the lines that I think the Senator from Mississippi is taking, and that he has a perfect right to take if he wants to, I expect to participate in the debate, and I do not want it said hereafter that I am trying to kill time with it. I am ready to vote on the matter without any debate; but it can not be expected that one side of it shall be debated and the other side remain silent. I want to give notice of that now.

Mr. HEFLIN. I promised the Senator from Idaho [Mr. GOODING] that I would take only a moment or two; and the Senator from Ohio [Mr. FESS] had the floor, and he said that if the matter would not take more than a minute he would yield. That is the understanding with which we got it up, and I hope my friend from Mississippi will not take any time on the matter.

Mr. HARRISON. Mr. President, I do not care what the Senator from Ohio said about taking a minute. This is a question that deserves more than a minute's time for the consideration of the Senate; and it is much better for it to be withdrawn if we are going to restrict ourselves to a minute's discussion of a question that goes to the very vitals of the resolution. I am more interested in this question than I am in the long and short haul bill that is before the Senate, or the appropriation bill that is before the Senate, or any other pending question; and we had better understand what is in this concurrent resolution before it is passed, rather than wait and then fritter away weeks of time in a discussion of a parliamentary question, when the report of the joint committee is made.

Here is what the concurrent resolution says:

> Said committee shall have leave to report its findings and recommendations, together with a bill or joint resolution, for the purpose of carrying them into effect, which bill or joint resolution shall, in the House, have the status that is provided for measures enumerated in clause 56 of Rule XI.

Clause 56 of Rule XI in the House gives certain committees a right to report at privileged times, that priority or preference, so to speak, may be given then in their status; and it seems to me that it was certainly the intention of the framers of this concurrent resolution that this joint committee was to be given full authority to consider these proposals, write its recommendations, draft a bill, report it to the House and Senate, and make it subject to consideration by the House and Senate, as if it had been reported by standing committees. If that is not the right construction, then we are only providing here for the naming of a joint committee to receive proposals, with no jurisdiction to report a bill that will be placed upon the calendar, so that the subject can be speedily dealt with and a conclusion expedited by the House and Senate. In other words, if that construction is incorrect, we have merely taken up weeks and months of the Senate's time considering a resolution that does nothing but delay the action of the Congress. The whole theory of the proponents of the resolution was to press for a consideration of the subject and a prompt solution of the question.

Mr. SWANSON. Mr. President, will the Senator yield?

Mr. HARRISON. Of course I submit that that is a question, when it comes back here, for the Senate to pass on, that the Senate has full power to say that it shall go to a standing committee, but that will take a majority vote. A majority of the Senate can do most anything. But, sirs, when I voted for this resolution, I did it under the impression that this committee had authority to go out and study this question and make its recommendations, and that on the proposals submitted here the Senate would, after discussion, express itself. I had no idea that the proposition was to go back to another committee to be further debated and delayed.

Mr. SWANSON. Mr. President, will the Senator yield?

Mr. HARRISON. Yes; I yield.

Mr. SWANSON. The question will come back on the bill reported under the rules of the Senate. The question will be debated then as to whether the rules of the Senate were modified by this concurrent resolution. If it is held that the rules of the Senate were modified, then the bill will be like a bill reported by a committee. If they were not modified, it will not be. That is a question to be determined when the bill comes up; but a motion can be made to refer it to any committee, which will be voted on; and it seems to me the proper time to discuss the interpretation of the rules as modified or not modified by this concurrent resolution is when the committee reports the bill.

Mr. HARRISON. Of course, a motion can be made to refer it to a committee, and the Senate by a majority vote can carry it there; but I am now basing my interpretation on what the intention of the proponents of this measure was, and I was under the impression all the time that it would not come back again to a committee.

Mr. MCKELLAR. Mr. President, will the Senator yield?

Mr. HARRISON. Yes; I yield.

Mr. MCKELLAR. Can the Senator point to any rule of the Senate which provides that a bill reported by a joint committee of the two Houses shall be the same as a bill reported by a committee of the Senate?

Mr. HARRISON. No; except the general terms of this concurrent resolution and a fair interpretation of it.

Mr. MCKELLAR. That refers to the House, but does not refer to the Senate, leaving the Senate rules in full force and effect.

Mr. HARRISON. It shows that the intention of the framers was that in the House it should not have to go back to a committee, and that here it should not have to go back to a committee.

Mr. MCKELLAR. By a process of exclusion that would indicate that here it was to go to a committee.

Mr. HARRISON. But I do not care to take up the time of the Senate. I merely wanted to express my opinion of this proposition.

Before I close, let me say that I do not think the amendment that is placed by the House in this concurrent resolution changes the concurrent resolution substantially. I am in favor of incorporating this amendment in the measure and hope it will be concurred in. As we have reached this particular point in this discussion, I want to pay my tribute to the distinguished Senator from Alabama [Mr. HEFLIN].

Mr. President, he has borne the brunt of this fight. In the consideration of this question in the prior Congresses his distinguished colleague [Mr. UNDERWOOD] handled it splen-

didly. The great work he has done and the services rendered by him are reflected in the consideration of this resolution. The measure that bore his name should have become a law. But it did not. It was defeated. It was due, though, to no fault of the senior Senator from Alabama [Mr. UNDERWOOD]. In the discussion of this resolution the distinguished senior Senator from Alabama has been denied, because of illness, from taking part; but, sirs, the splendid qualities of his leadership has been fully supplied by his colleague, the distinguished junior Senator from Alabama [Mr. HEFLIN]. This measure could not have been handled better nor higher results obtained by any other. The junior Senator has displayed those high talents of leadership in defending and pressing this measure that insures success. For weeks he has met every attack and constantly pressed every opening. His adroitness, perseverance, knowledge, and eloquence are about to be rewarded in the final adoption of this House amendment.

The people of Alabama and of the South should be, and I am sure they are, proud of the junior Senator from Alabama. Some thoughtless allusions have been made in the heat of this debate to the effect that he was no friend of the farmers. Why, sirs, his long and honorable record, both in the House and in the Senate, refutes any such suggestion. For 15 years I have served with him either in one or the other branch of the Congress, and during that time I know that no other public servant has striven harder and with better results for the great agricultural interests of the country than he. His arm has grown strong and his voice more eloquent in their service.

I hope this is the beginning of a brighter day for the development of Muscle Shoals, and that from this action a proposal will be born that will give relief to agriculture and the highest and most useful service to the South and the whole country. It is to be hoped that such a proposal will come that we can unanimously accept it.

Mr. HEFLIN. Mr. President, I ask for a vote.

The VICE PRESIDENT. The question is on agreeing to the House amendment to Senate amendment numbered 1.

Mr. NORRIS. Mr. President, I take it that the matter is still debatable, notwithstanding the request of the Senator from Alabama, who has just been eulogized so warmly as to bring blushes to his face.

I desire to read, Mr. President, paragraph 56 of Rule XI of the House of Representatives:

56. The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), on rules, joint rules, and order of business; the Committee on Elections, on the right of a Member to his seat; the Committee on Ways and Means, on bills raising revenue; the Committee on Appropriations, the general appropriation bills; the Committee on Rivers and Harbors, bills authorizing the improvement of rivers and harbors; the Committee on Public Lands, bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, and bills for the reservation of the public lands for the benefit of actual and bona fide settlers; the Committee on the Territories, bills for the admission of new States; the Committee on Enrolled Bills, enrolled bills; the Committee on Invalid Pensions, general pension bills; the Committee on Printing, on all matters referred to them of printing for the use of the House or two Houses; and the Committee on Accounts, on all matters of expenditure of the contingent fund of the House.

It shall always be in order to call up for consideration a report from the Committee on Rules and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present, nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI.

The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business within three legislative days of the time when ordered reported by the committee. If such rule or order is not considered immediately it shall be referred to the calendar, and if not called up by the Member making the report within nine days thereafter, any Member designated by the committee may call it up for consideration.

That is paragraph 56 of Rule XI of the House of Representatives, the one referred to in this concurrent resolution. I would not say a word, and had not intended to say a word, if it had not been for the fact that the Senator from Mississippi [Mr. HARRISON] has given the Senate to understand that when this joint committee shall report back to the Senate, the bill they report will not have to go to a committee, but will come before the Senate under paragraph 56 of Rule XI, just read by me, which applies only to the House of Representatives—because in this resolution it is said that the bill or joint resolution in the House of Representatives shall be entitled to the privileges named in the rule which I have read.

The joint committee will have to report to the House and the Senate. It will report, undoubtedly, by a joint resolution or a bill, and the measure will be handled in the same way any other bill or joint resolution would be. It will come into this body and, of course, be subject to the rules of the Senate. As to what shall be done with it, whether it shall automatically, under the rules of the Senate, be referred to the appropriate committee or whether it shall be taken up without being considered by a committee, is something that will be determined then, and I regret that the question is raised now. But the Senator from Mississippi proceeds on the theory that when a bill or joint resolution shall be reported by this joint committee, it will not be referred to one of the standing committees of the Senate, and for fear that when the report comes in the statement of the Senator from Mississippi, undisputed and unanswered, will be taken as indicating the unanimous consent of the Senate, I have taken the floor now to call that proposition in question.

I admit that it will be within the power of the Senate to do whatever it pleases with the report of the committee, but under the rules of the Senate it should automatically be referred by the Presiding Officer to the appropriate committee. If the joint committee shall report a bill to the Senate, I do not believe anyone would contend for a moment that the bill should be taken up and passed, unless it were by unanimous consent, without being referred to a committee. It will receive the same treatment any other bill would receive. It will be the same as though the Senator from Mississippi, who is honoring me with his attention, introduced a bill on the same subject. It may be the bill he would introduce verbatim, word for word; but if he introduced it, it would have to be referred to a committee. It may be a bill entirely different in every respect from any bill on this subject that has ever been introduced, and the question as to what shall be done with it will be taken up when the bill is introduced. I simply wanted to call attention to the fact that it is not to be taken that the expression of the Senator from Mississippi as to what should be done with the bill when it comes back is acquiesced in as being in accordance with the rules of the Senate.

Mr. McKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Tennessee?

Mr. NORRIS. I yield.

Mr. McKELLAR. I merely wish to say that I indorse what the Senator from Nebraska has just said with reference to the course the bill reported by the joint committee will take, and I give notice, if any notice is necessary, that I do not admit that anything which takes place here to-day indicates my agreement with the theory of the Senator from Mississippi.

Mr. NORRIS. In closing, if I were able, I would add to the eulogy paid the junior Senator from Alabama [Mr. HEFLIN] by the Senator from Mississippi in the very eloquent speech he has just made.

I want to join the Senator from Mississippi, in the same spirit and in the same mood he has manifested, in paying my respects to the Senator from Alabama for the magnificent management and parliamentary legerdemain that he has shown in his control of the situation. He has shown a wonderful leadership. It did not commence with this session of Congress. At a prior session his colleague led the fight, and did not finally succeed, although there was quite a large percentage of the Senate, perhaps a majority, who favored the bill he was advocating.

The junior Senator from Alabama, now having the leadership in his hands, is bringing about a vastly different result. He has succeeded in getting the resolution through. He has succeeded because he is the leader not only on the other side but on this side. He has succeeded, Mr. President, because he was selected to be the general on this occasion by the general of all of us, the man in the White House. He has succeeded because the President of the United States, for whom he has been a personal representative not only on the floor of the Senate but in the committee, has been able, through him, to get his commands put into law by Senators on this side, as well as Senators on the other side.

Our leader, Mr. President, has had a vacation. He is not in the Senate. He has gone to Florida, because it is unnecessary for him to be here to handle this great Republican aggregation. The leadership has been placed in the hands of the Senator from Alabama. Unless we consider the case of his colleague in the prior Congress in managing this question, who was in a similar position, it is the first time in the history of the Senate when such a magnificent tribute has been paid to *any man* by the President of the United States, in selecting a leader to carry through the legislation he wants in favor of the Water Power Trust. It is a great honor that he should look into the bright, smiling countenances on the Republican side, and turn them all down in favor of the junior Senator from Alabama. [Laughter.]

The selection of the junior Senator from Alabama to lead this magnificent fight on to victory has enabled our great leader, the Senator from Kansas [Mr. CURTIS] to take a much-needed rest. We did not need him. He is recuperating, because I presume when the Senator from Alabama lays down the great burdens that are on his shoulders as a leader not only of the Democrats but of the Republicans, and as the mouthpiece of the administration, he will be weary and, this fight being over, will need a rest. By that time our great leader, the Senator from Kansas, will have returned, and he can take his old place again without any fear of being even humiliated by the change that has taken place.

Mr. FESS. He will be here to-day.

Mr. NORRIS. The Senator from Ohio says he will be here to-day, coming back just in time to take up the burdens as the Senator from Alabama lays them down. [Laughter.] So, Mr. President, there is a happy result in the wind-up of this affair. I did not know they were managing the thing by such close clockwork, but it seems they have been. We will not be without a leader, thank God. When the Senator from Alabama leaves to rest up from the burdens which have been on his shoulders we will again have the Senator from Kansas, with all the life and vigor that a recreation and a vacation of two or three weeks will give. He went away in the perfect assurance that nothing would be lost while he was gone. He knew that Senators on this side, faithful followers of his, would be glad and delighted, under the advice of President Coolidge, to follow even a greater man on to victory for the trusts and the monopolies, under the leadership of the Senator from Alabama.

Mr. GEORGE. Mr. President, I do not care to delay the vote, but since the question has arisen as to whether or not the report of this special committee will come back to the Senate for action without reference to a committee or whether it will be handled as all other matters of legislation are handled, by reference to a committee, and especially in view of the position taken by the Senator from Mississippi, I desire to make my position clear.

I shall insist, when that question arises in the Senate, that the report of the special committee go to the appropriate standing committee, and I wish to say that I shall base my contention then upon a fact which appears in the resolution itself.

When this concurrent resolution came over from the House and we were told it could not be amended at all, or changed in any respect, it provided for the appointment of a committee to negotiate a lease; but notwithstanding the advice given us repeatedly the Senate was inconsiderate enough to adopt an amendment, and the resolution now provides that the joint committee is authorized and directed to conduct negotiations for a lease *or leases*. Are we to assume that if the joint committee should receive a number of bids, or more than one, it would itself assume the authority and power to select the bid which had made the greatest appeal to it, the committee, and although we have especially instructed the committee to negotiate leases, we would be permitted to consider only the lease which the committee might elect to submit to the Senate for consideration? I take it that the amendment meant that whatever this joint committee did would be submitted to the Senate, and if it did negotiate more than one lease that the two or three or four leases would certainly go to the appropriate committee of the Senate for consideration by that committee.

There is another matter to which I desire to call attention. The Senator from Mississippi said that if this joint committee should report by or before the 26th day of April, 1926, we would then be in position to proceed at once with the consideration of its report. I hope there will be no indecent haste upon the part of this joint committee. I hope it will hold the bidding open until April 26, because I think that was the intent of the Senate in adopting that amendment. I hope the committee will not close the bidding immediately upon the receipt of one bid, or of even two bids, but that it will carry out the spirit and intent and purpose of that amendment which the Senate put into this resolution and hold the bidding open until the 26th of April, or at least until that date is in sight.

My position on the matter I have already made clear. I do not need to repeat what I have said, but I want to add to what the distinguished Senator from Nebraska [Mr. NORRIS] has said about the leadership under which the resolution was carried through. I desire to call attention to the fact that it was carried through largely by the votes of our friends on the other side of the aisle. I wish to emphasize the one thought that the great controlling purpose is to provide cheaper nitrates for the American farmer, and yet I can not refrain from directing attention to the fact that the only competitor of nitrate, which we now import from Chile, is ammonium sulphate, that that is the real competitive ammoniate used in the manufacture of commercial fertilizer, and that the vast majority of those who supported and followed the leadership of the distinguished Senator from Alabama had heretofore placed a duty of $5 per ton upon ammonium sulphate. Notwithstanding that fact, Chilean nitrate is coming into the country over the $5 per ton bar.

I beg leave to suggest even to the President and to his faithful adherents who have followed the leadership of the Senator from Alabama for the one purpose of providing cheaper nitrates for the American farmers that if they will take off the duty of $5 per ton upon the chief ammoniate, and the only competitor of Chilean nitrate, the President and his followers who have thus aided the distinguished Senator from Alabama, my personal friend, will do more to cheapen nitrates than will be accomplished by the pending concurrent resolution or any bid that will be submitted to the committee and finally ratified by the Congress. I just throw out that suggestion. I am sure the President did not think of it when he was mobilizing the forces here for an assault upon the high prices paid by the American farmers for Chilean nitrate, or nitrate of soda, as we call it.

Mr. President, I shall hope, when the bids are received by the joint committee, that the appropriate committee of the Senate will have the right to inspect the several leases before the Senate is called upon to ratify merely one particular lease that may be selected out of the number by the joint committee.

Mr. RANSDELL. Mr. President, I shall detain the Senate just a moment. I wish to say that I was unavoidably absent when the concurrent resolution was acted on, or I should have been glad to participate in the debate. I have listened with interest to what was said by the Senator from Georgia [Mr. GEORGE], and I wish to add that, in my judgment, we can do a great deal to get cheap nitrates and other fertilizers for the farmers of the country by utilizing the big plant at Muscle Shoals as a great chemical laboratory and learning how to make cheap fertilizer, emulating, if you please, the splendid example which has been set and obtaining the remarkable results which have been secured by the great chemists of Germany.

If I am correctly informed, when the World War broke out, Germany was importing over 700,000 tons of Chilean nitrates per annum. The war completely shut out the importation of nitrate into Germany, and yet she did not suffer, because her chemists ascertained how it could be manufactured at home. They are now manufacturing it very largely, and that, too, without the aid of hydroelectric power. Their power is obtained from low-grade coal. They make a very great quantity of nitrate, importing only a small portion of their needs from Chile. Why can not we do likewise? Why can not our chemists learn how as those of Germany have learned?

There is pending in the Senate a bill which I had the honor to introduce in reference to Muscle Shoals, which would create a great laboratory at the nitrate plant there. It would instruct the Department of Agriculture to investigate to the fullest degree what may be accomplished not only with nitrates but with phosphoric acid, with potash, and with everything else in the chemical line that might be aided by the great plant at that point.

It would not put our Government into the business of manufacturing fertilizer in competition with the 300 fertilizer establishments of the land, who are engaged in the legitimate business of making and placing on the market over $200,000,000 worth of fertilizers every year. These private fertilizer plants produce over 7,000,000 tons of fertilizer annually. My bill would not turn the colossal nitrate works at Muscle Shoals into a competitive Government machine against those manufacturers, but it would say to the scientists of America, "Go into the business of experimenting with atmospheric nitrogen and other fertilizer commodities and find out how to make them cheaper and better." It would not only instruct the Department of Agriculture to do that, but it would say to the scientists of this and of every other land, "Here we have a great chemical plant at

Muscle Shoals. Come in, gentlemen, and use it. It will not cost you a cent. We give you all of these facilities. We furnish free power. Find out all about nitrates and phosphates and potashes. What we desire is the know how, and we will assist you to find it."

It is well known that in this country there is plenty of insoluble potash. The trouble is to get it into soluble form so that plant life can make use of it. Many experiments were conducted during the war to get soluble potash out of our insoluble materials, but it was found to be more expensive than it was to bring it in from Germany. We have not scratched the surface of the great science of chemistry as yet. Why not use that plant and find out a great many things that may be done by chemistry.

I shall not attempt to go into the matter now, but wish to state that had I been here I would have opposed with all my might the passage of House Concurrent Resolution No. 4, because I think that the plant should be used as a laboratory first and foremost, and then the surplus power should be distributed generally by the Federal Water Power Commission in all the surrounding States. Perhaps that can be done under the amendments presented by the Senator from Arkansas [Mr. CARAWAY] embodied in the measure now before us.

Mr. REED of Missouri. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Missouri?

Mr. RANSDELL. I yield.

Mr. REED of Missouri. Does the Senator think that for the purposes of chemical experimentation the German scientists employed a plant like the one we propose to construct, or did they work the problem out in their small laboratories?

Mr. RANSDELL. I can not answer the question of the Senator from Missouri fully, but——

Mr. REED of Missouri. Does the Senator think we need——

Mr. RANSDELL. Please allow me to answer the question, since it has been asked. I can not state just how they did it, but they did it, and we have not done it. As this plant now exists, we should do our utmost to encourage chemical investigation there, retaining it for its initial purpose, which was the manufacture of munitions in time of war, instead of leasing it.

Mr. REED of Missouri. Does not the Senator think that a $160,000,000 power plant is rather a large adjunct to a chemist's laboratory?

Mr. RANSDELL. The Senator's premise is incorrect. He evidently does not know the facts. There is only one comparatively small portion of the $160,000,000 plant which is in the laboratory. A good deal of it is in the dam, the locks, and the big steam plant, which is more or less connected with the chemical plant. The greater portion of the plant, I will say to the Senator from Missouri, will be used to generate electric power. I do not think the chemical end of it will require very much of the plant.

Mr. REED of Missouri. Then we do not need to go there to conduct our experiments in chemistry.

Mr. RANSDELL. I believe it would be better to use it for experiments as long as we have it and to keep the plant in good condition in order to make munitions in time of war. We could use it far better for that purpose than any other.

Mr. SIMMONS. Mr. President, I think no one in the Senate opposed with more determination than I the passage of the bill presented to the Senate by the senior Senator from Alabama [Mr. UNDERWOOD] during the last Congress. I was intense in my opposition to it. I opposed the passage of the bill upon the opinion which I entertained that its passage would be adverse to one of the greatest interests of the country, that of agriculture. I did not see, when the present concurrent resolution came before the Senate, very much difference between the bill of the senior Senator from Alabama and the resolution which was in charge of the junior Senator from Alabama [Mr. HEFLIN], so far as the effect upon the interests of agriculture was concerned. There is nothing to-day that equals the importance to the farmer of cheap fertilizer. A great many suggestions have been made for the relief of distressed agriculture, but none of the measures, in my estimation, promises so much to the farmers as would a measure which would guarantee to him a substantial cheapening in plant food, upon which he has become almost absolutely dependent, if he is to continue to pursue his occupation with a reasonable guaranty of profit.

I did not oppose either one of these two propositions for any such reason as that I favor Government control. There is no man in this body who is more opposed to Government control in private industry than am I. I do not like to see the Government engaged in the shipping business, but one of the great needs of the United States to-day is a merchant marine. As a result of the World War the Government acquired large control over the shipping business. I am very anxious to see the Government get rid of that control; I am very anxious to see an American merchant marine operated by private capital and industry; but, Mr. President, I do not wish, in getting rid of our present control over the commerce of the seas, to do it in a way that will result, in my opinion, in the disappearance again of the American flag from the ocean. For that reason I have opposed any measure which contemplated the disposal of our Government-owned ships that did not provide adequately against a return to former intolerable conditions.

For the same reason I have felt that, because of peculiar circumstances, the Government has come into possession of this great property at Muscle Shoals, a property if wisely used capable of furnishing not only what the Government may need for the purpose of national defense but what the farmer may need for purposes of fertilizer. The Government having put itself in the position where it could protect itself in case of war, where it could protect its agriculture against excessive prices of an essential ingredient used by the farmer in the production of his crops, I felt that it ought not to part with that property unless it was guaranteed beyond peradventure that the Government's needs and the farmers' needs in this respect would be adequately met by whomsoever should come into possession of that great property.

Mr. President, I desired to say this much, because I did not wish to be put in the position of having taken my attitude with reference to this measure and with reference to our shipping on account of any favorable feeling toward Government ownership in any line of private industry in the United States.

However, while I am on my feet I wish to say one word with reference to the junior Senator from Alabama [Mr. HEFLIN]. I have been associated with him in this body for a long time; I was intimately acquainted with him and had knowledge of his activities in the other branch of Congress for many years. I know the sentiments of his heart; I know the motives that control his actions, and I speak with some degree of knowledge and with absolute confidence when I say that there is no man in public life to-day whose heart is more thoroughly in harmony with the interests of the great agricultural and consuming masses of this country than is the heart of the junior Senator from Alabama.

While I have the views which I have expressed with reference to this measure, I know that the Senator from Alabama, had he shared those views, had he looked at the matter from the standpoint from which I have looked at it, had he believed that what he was doing was in the slightest particular antagonstic to the interests of those whose interests he had so deeply at heart, never would have taken the position that he has taken with reference to this question. I know that he is sincere; I know that he believes that what he has done with respect to this resolution is not antagonistic to agriculture and is not antagonistic to the interests of the consuming masses of the United States. I quite disagree with him in that view, but I know that his action is prompted by an earnest belief that he is serving the interests of the farmer as well as the welfare of his country. In his entire service here the Senator from Alabama [Mr. HEFLIN] has been brave, loyal, and able and has always been absolutely fearless and faithful in his devotion to the farmers and the great body of the American people, according to his conception of their best and highest interests.

Mr. President, I think the resolution as it was adopted by the Senate was very bad legislation; I do not think it is yet a good piece of legislation; but I do believe that the slight amendments that the House of Representatives has put into the resolution improve it immensely. The resolution as it left the Senate did not guarantee to the farmers of the country that they would get cheap fertilizer; it did not guarantee to them that they would get fertilizer at all. The resolution as agreed to by the Senate left it with the lessees to say whether or not they would make fertilizer. It left with them to make it in any way and at a cost which would have been prohibitive and would have made their product utterly useless to the farmer. One of the amendments which have been incorporated in the resolution by the House of Representatives in a measure remedies that situation. It provides that the bill which may be finally prepared and presented to the Senate shall not follow a particular formula prescribed in the resolution, but that, while it must in general terms follow that formula, the bill, if it is to receive the sanction of the Senate and the House of Representatives, must be drafted with this idea—and these are powerful words; they carry immense import; they mean much in the improvement of the resolution—

but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients mixed or unmixed primarily as hereinafter provided.

Mr. COUZENS. Mr. President, will the Senator from North Carolina yield to me?

Mr. SIMMONS. I yield to the Senator.

Mr. COUZENS. Does the Senator not understand that the provision he has just read might include the manufacture of some chemical that it was possible to use in fertilizer and yet which might be sold on the market not as fertilizer?

Mr. SIMMONS. I do not deny that the committee might evade and might even resort to a device similar to that suggested by the Senator from Michigan, but I do not assume that they will do so. If they should do so, then the Senate and the House of Representatives would be relieved from any kind of moral obligation to accept the recommendations of the committee or the bill which they might present.

Mr. COUZENS. Mr. President, will the Senator from North Carolina yield further to me?

Mr. SIMMONS. Yes.

Mr. COUZENS. I can understand that this very language might be written into the bid that was accepted by the committee and be incorporated in a bill to be recommended to both Houses, and yet the lessee would be permitted to manufacture any chemical that might be used in fertilizers but in turn be sold commercially on the market not mixed with fertilizer.

Mr. SIMMONS. Mr. President, the language may mean in the mind of the Senator what it does not mean to the average mind and what it does not mean to the legislative mind. To the legislative mind it is a direction to the committee to report a bill which does safeguard the production of nitrates. If the committee should report the identical language, it would not be carrying out the instruction; the instruction is not to report the language but the instruction is to provide in a bill which may be presented ample and sufficient means to carry out the instruction contained in that language. The instruction is to do a particular thing, and that instruction would not be carried out by simply incorporating in any bill which might be presented the language of the amendment adopted by the House.

Mr. COUZENS. Mr. President, will the Senator yield further?

Mr. SIMMONS. Yes.

Mr. COUZENS. The instruction is very indefinite in its provisions; it does not instruct the committee at all that this plant must manufacture chemicals for the exclusive use of fertilizers. It may permit the manufacture of chemicals for use for any other purpose so long as they may be adaptable for fertilizer. The language is not clear at all.

Mr. SIMMONS. The language is not as clear as I should like to have it, but the intent of the language is perfectly clear. The language is that the committee shall recommend "no lease or leases which do not guarantee and safeguard the production of nitrates." It does not stop there, although that is sufficient, I think, for the purposes of this argument——

Mr. COUZENS. Oh, no; I do not think it is.

Mr. SIMMONS. But it goes on to say—

nitrates and other fertilizer ingredients, mixed or unmixed primarily as hereinafter provided.

It refers specifically to the production of "nitrates and other ingredients of fertilizers." The clear import of that, Mr. President, is that the committee shall negotiate no lease which does not provide amply for the production of fertilizers, and which does not so provide without offering opportunity for evasion in the accomplishment of the specific purpose. It will be for the two Houses to determine when the committee reports to them whether it has brought us a bill which carries out the evident and clear purpose and intent of that amendment.

I am not entirely satisfied with the amendment, but I say it does materially improve the resolution. I am not sufficiently satisfied with it to swallow the resolution, Mr. President; but I do feel some gratification that, if the resolution shall be adopted and the committee shall bring us a proposal here that does not satisfactorily provide for what was the intent of Congress when it concurred in this House amendment, we may, without feeling trammeled by any moral obligation whatsoever, summarily reject the proposal.

I greatly feared, under the resolution as it came before the Senate and as it left the Senate, that if the committee presented a proposition to the Senate which technically followed the lines and the general principles laid down in the resolution, the Congress itself would feel morally bound to accept it, but with this language in it, Mr. President, it is perfectly clear to my mind that if the joint committee shall present a proposition which in effect, in the opinion and the judgment of the two Houses of Congress, does not carry out the legislative intent expressed in the amendment, then we may open the whole question and reject without embarrassment the proposal which may be presented.

Mr. President, I did not expect to take as much time as I have taken about this matter, and would not have done so if the Senator had not interrupted me. I rose simply for two purposes, Mr. President: First, to repudiate the idea that I, in opposing this concurrent resolution and the former bill looking to the same end, mean to be put in the position of favoring Government ownership; secondly, to add my tribute to the integrity, to the patriotism, to the ability, and to the fidelity and loyalty of the junior Senator from Alabama [Mr. HEFLIN] to the farmers of the United States.

The VICE PRESIDENT. The question is on agreeing to the House amendment to Senate amendment numbered 1.

The amendment was agreed to.

The VICE PRESIDENT. The question is on agreeing to the House amendment to Senate amendment numbered 4.

The amendment was agreed to.

The VICE PRESIDENT. The Chair, having had ample time for reflection during the progress of the debate, sees no occasion for delaying the announcement of the appointment of the committee. He appoints on this committee on the part of the Senate the Senator from Nebraska [Mr. NORRIS], the Senator from Alabama [Mr. HEFLIN], and the Senator from Kentucky [Mr. SACKETT].

Mr. NORRIS. Mr. President, I am sure I appreciate the honor which the Chair has conferred upon me in appointing me on this committee, and I desire to return to him my thanks for doing so. He has followed what is the custom, I think; but, Mr. President, everybody knows my position on Muscle Shoals, and knows that I am opposed to leasing this great power to anybody, and that no bid could be made by any private corporation that would meet with my approval. There has been no secret about that.

The Senate has decided to open the matter for lease. So has the House; and while under the precedents of the Senate the Chair ordinarily would appoint me a member of the committee because I happen to be chairman of the Committee on Agriculture and Forestry, at the same time I want to be as fair to my enemies on this matter as I am to my friends.

If this property is to be leased—and the Senate has decided that it will at least try to lease it—the Senate is entitled to have a committee that is favorable to the action it has taken. I am not favorable to it. I could not, without a violation of my conscientious convictions, act favorably upon any bids that might be made. I feel that it is my duty to be fair with those who do not agree with me on this subject, and who at this particular time appear to have won this fight, and I feel that it would not be fair to them for me to undertake to act in a capacity where I would be called upon to do something with which I have no sympathy, and to try to negotiate a lease when I know in advance that no lease can be negotiated that will receive my approval.

I realize also, Mr. President, that the committee appointed has no sympathy with my views, and I am not contending that it should have. I am willing, so far as I am concerned, since this concurrent resolution has passed and became a law as far as the two Houses can make it such, that they should—and I think in all honesty and honor they ought to—have a committee favorable to that action.

Under those circumstances, Mr. President, I do not believe that I can honorably accept a place on this committee. I say this without any feeling whatever against those who are to go on the committee. I do not feel in the least angered or piqued or anything of that kind. I do not want anybody to get that idea. I think I ought to remain off the committee simply because the action of the Senate is adverse to my belief, and I can not support the action of the Senate either in the committee or anywhere else, and when this matter comes back I shall probably oppose any lease or any bill that is drawn with the idea of making a lease.

To my mind, Mr. President, leasing this property after the taxpayers of America have put more than $160,000,000 in it, on the basis of a law which provided originally that the Government should operate it, is no more nor less than a governmental crime; and I say that with perfect respect to those who disagree with me. To my mind we have no honest or honorable right to deal with this property in any other way than as a governmental proposition until we change the law in the manner provided by law. Before we took one dollar of the taxpayers' money at Muscle Shoals we solemnly provided that the works developed there through the taxes of the people should be operated solely by the Government and should not be leased or sold to any private corporation or individual. That law has remained on the statute books ever since 1916; and starting with an appropriation of $20,000,000 we have continued, with

that law on the statute books, to appropriate the taxpayers' money until now we have used of their hard-earned money more than $160,000,000.

I consider that we have been trustees of the people in this matter. It is not fundamentally a question of governmental ownership. We have gone on and we still own all the property paid for from the Public Treasury. It is our property now. If we did not want to do it under these conditions and do it in this way, we ought to have been square enough and fair enough in the original appropriation to provide that when it was completed it should be leased or given away to a power trust or an electric company. We did not do that. We have been holding the purse strings of the Government ever since, reaching into the pocket of Uncle Sam and taking out his hard-earned dollars and building up this property on the theory that when it was built it should be retained by the people of the United States. Now we have passed a concurrent resolution which in my humble judgment violates the trust that we have held from the very beginning; and if it is the last thing I ever do, Mr. President, I will never lend my hand or my voice or my vote to what I believe to be a violation of the sacred trust that in part is in me, not only for the taxpayers who live now, but for unborn generations that shall follow.

Therefore, Mr. President, under all the circumstances I feel that I can not, in duty either to myself or to those who are in favor of this concurrent resolution, accept a place on this joint committee. I therefore most respectfully decline the appointment.

The VICE PRESIDENT. The Chair appreciates the high-mindedness of the Senator from Nebraska, and regrets that he feels he can not serve. The Chair appoints in his place the Senator from Illinois [Mr. DENEEN].

LONG-AND-SHORT-HAUL CLAUSE OF INTERSTATE COMMERCE ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 575) to amend section 4 of the interstate commerce act.

Mr. WILLIS. Mr. President, I know that a number of Senators are desirous of hearing my colleague [Mr. FESS] on the long and short haul bill. I therefore suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	La Follette	Robinson, Ind.
Bingham	Fletcher	Lenroot	Sackett
Blease	Frazier	McKellar	Sheppard
Bratton	George	McLean	Shipstead
Brookhart	Goff	McNary	Shortridge
Broussard	Gooding	Means	Simmons
Bruce	Harreld	Norris	Smoot
Butler	Harris	Nye	Stephens
Cameron	Harrison	Oddie	Swanson
Capper	Heflin	Overman	Tyson
Caraway	Howell	Phipps	Walsh
Copeland	Johnson	Pine	Warren
Dale	Jones, N. Mex.	Pittman	Watson
Deneen	Jones, Wash.	Ransdell	Wheeler
Edge	Kendrick	Reed, Mo.	Williams
Ferris	King	Robinson, Ark.	Willis

The PRESIDING OFFICER (Mr. BLEASE in the chair). Sixty-four Senators having answered to their names, there is a quorum present.

PRESIDENTIAL APPROVALS

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following acts:

On March 11, 1926:

S. 2041. An act to provide for the widening of First Street between G Street and Myrtle Street NE., and for other purposes.

On March 12, 1926:

S. 1129. An act authorizing the use for permanent construction at military posts of the proceeds from the sale of surplus War Department real property, and authorizing the sale of certain military reservations, and for other purposes.

THIRD WORLD'S POULTRY CONGRESS (S. DOC. NO. 82)

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report by the Secretary of State recommending legislation by Congress authorizing an appropriation of $20,000, or so much thereof as may be necessary, to enable the participating and installation of a suitable national exhibit at the Third World's Poultry Congress to be held at Ottawa, Canada, in July, 1927, in accordance with a request of the Secretary of Agriculture, a copy of whose letter is attached to the report of the Secretary of State.

I share in the view of the Secretary of Agriculture and the Secretary of State that participation by the United States in this World's Poultry Congress would be in the public interest, and I recommend that the appropriation be authorized and granted.

CALVIN COOLIDGE.

THE WHITE HOUSE, *March 13, 1926.*

LONG-AND-SHORT-HAUL CLAUSE OF INTERSTATE COMMERCE ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 575) to amend section 4 of the interstate commerce act.

Mr. FESS. Mr. President, when the Senate adjourned yesterday there was some controversy over the phrase "reasonably compensatory," a phrase used in the proviso of the fourth section of the transportation act. I asked the Senator from Iowa [Mr. CUMMINS], one of the coauthors of the bill, whether he considered "reasonably compensatory" identical with "fully compensatory." His reply was that he did. I can not accept that viewpoint, and while I do not doubt that the Senator himself had that in mind when the bill was here under discussion, for anything the Senator would say, of course, would be conclusive with me that he meant what he said, the commission has not taken that view of it, and I can not see how anyone can take that view of it, because if there is to be no difference between "fully compensatory," and "reasonably compensatory," then the proviso in the fourth section is entirely useless, because the fourth section provides that there shall not be a lower rate for a long haul than for a short haul. That is the general statement. Added to it is the proviso that in special cases, after an investigation, there may be allowed a lower rate for a long haul than for a short haul, and it makes the limitation that the rate thus made must be reasonably compensatory. If "reasonably compensatory" means "fully compensatory," the proviso is without any meaning whatever.

I have made a little investigation, going into the rulings of the Interstate Commerce Commission on this matter. In the transportation act of 1920 Congress gave the Interstate Commerce Commission a rule of guidance with respect to long-haul rates which was definitely and statedly designed to confirm and perpetuate the granting of relief from rigid application of the fourth section. Nothing could be clearer than this. If Congress had intended to make the section absolutely rigid, it would have stricken out the proviso altogether.

The Senator from Iowa, joint author of the transportation act of 1920, in explaining the amendment to section 4, said that if he had had his way the bill would have prohibited departures altogether, but that he did not have his way because the committee did not agree with him. Hence, he said, and I quote his language on this floor—

> We have not adopted the positive, rigid, long-haul provision. We still permit * * * some discretion on the part of the Interstate Commerce Commission.

When this legislation, with this amendment to section 4, reached the commission, what construction was that body to place upon it? The new section contained a proviso authorizing departures from the rigid long-and-short-haul clause in their discretion. It prescribed that the lower rate for the longer haul must be compensatory. Did that mean fully compensatory? Not at all; for the phrase in the statute reads "reasonably compensatory."

Taken together with the preservation of some discretion left with the commission to grant relief, what other construction could the commission place upon the phrase than authority to grant relief where the lower rate would be compensatory, but somewhat less than fully compensatory?

If this is not the discretion which Congress voted to continue in the commission, what was it? Under what conceivable circumstances would a railroad apply for the sanction of the commission to charge more for a shorter haul than for a longer haul if each individual rate had to be fully compensatory? There never could be any departures, and applications for them would be useless.

It is true that during the debate on the floor the Senator from Iowa undertook to define the words "fairly compensatory" as the phrase originally stood and he gave notice to all concerned that what was meant by those words was a rate which would earn a return on the investment. It is the duty and the practice of the Interstate Commerce Commission and of the courts, where statutory language is doubtful, to take under consideration, among other things, statements made by members of the legislative body, but here we have a phrase which for many

years has had a definite restricted and technical meaning in the regulation of rates.

The word "compensatory" has always been used interchangeably with the word "remunerative" and has always signified out of pocket costs, plus something more, but less than fully compensatory. In the same debate to which reference has been made, Senator Poindexter declared that he did not know what construction the commission or the courts would give to the words "reasonably compensatory." As an experienced lawyer he knew that the commission would be constrained to consider all the circumstances and conditions involved in the question and the commission really has no choice but to assume that it was expected to use its discretion in granting authority for departures and in doing this to be guided by the phrase "reasonably compensatory" and by its practical knowledge of the traffic conditions which have made it desirable to enact a proviso qualifying the otherwise absolute rigidity of the section.

Mr. President, I take it that "fully compensatory" is the limit above which we can not go, a limitation placed there by the carrier in the interest of the shipper, while "reasonably compensatory" is the limit below which we can not go in the interest of transportation generally.

In order that the lower rate may be in accordance with the expressed policy of the Nation to maintain both rail and water transportation, it must not be low enough to threaten the competitor, if it is a water competitor. It ought to be low enough to meet the competition, and it must not be so low as to put the burden on some other traffic or to jeopardize the provisions of the transportation act, which makes possible an adequate income upon the investment in the business.

Therefore there is a very deep concern that in the lowering of the rate it must be reasonably compensatory; it must not be confiscatory. Therefore a rate that is reasonably compensatory is one which brings in more than the mere out-of-pocket cost. It must not simply satisfy the cost of the traffic; it must provide some profit. Otherwise it is not compensatory at all. It might be compensatory in a sense, it is true, but not in the sense that it would be a profit. Therefore a rate that is fully compensatory is the maximum upward, one that is reasonably compensatory is the minimum downward, and the stretch between them represents the discretion the commission has. That is why the provision of the law is not rigid. That is why section 4 is flexible, and I can not understand how anyone would insist that "reasonably compensatory" is the same as "fully compensatory."

Mr. LENROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Wisconsin?

Mr. FESS. I yield.

Mr. LENROOT. May I suggest to the Senator another view, that if the law requires the rate on a long haul to be fully compensatory, and at the same time permits a higher rate than that at the intermediate point, the law would authorize an unreasonably high rate at the intermediate point, beyond the power of Congress to authorize it.

Mr. FESS. I thank the Senator for that statement, which is true.

Mr. PITTMAN. Mr. President——

Mr. FESS. I yield to the Senator from Nevada.

Mr. PITTMAN. As the Senator from Iowa [Mr. CUMMINS] stated yesterday, a rate is either compensatory or confiscatory. He said that a rate that was simply based on what is called out-of-pocket cost, an expression which has grown up in the decisions of the Interstate Commerce Commission, which did not take care of its fair and reasonable share of the expenses of the service, was confiscatory. The Senator from Iowa, it will be remembered, said that the rate should be such as, taking into consideration all costs, overhead, depletion, repairs, and operation, would pay something more than cost. That is not the way the term "out-of-pocket cost" is used by the Interstate Commerce Commission. They hold that if a car is moving empty, if something is put into it, the cost to the company is reduced, and they could make something on the actual haulage by having the car there, but that the total gross receipts from it, compared with the total tonnage of the road, would result, if all freight had been transferred to the same basis, in a loss to the road, that it would be confiscatory, and he held that any court on earth would hold it to be confiscatory if any such rate were fixed along the whole line.

In other words, if the Interstate Commerce Commission had forced the 80-cent rate asked for in the application, not only at the terminal or competitive point but all along the line, it would have been a confiscatory rate, because, as Mr. Esch testified the other day, it would have caused a net loss of revenue of $67,000,000; and Mr. Shoup, of the Southern Pacific, wrote in his celebrated article to extend the rate that they ask at the terminal point to the intermediate points along the line would bankrupt his railroad. The question is, Can the Senator conceive of a rate for a longer distance which, if applied to the shorter distance, would benefit the railroad as a compensatory rate of any kind or character, or can he conceive that if the Interstate Commerce Commission forced that rate on a railroad the Supreme Court would not say it is a confiscatory rate and would bankrupt the railroad? It will be found that the commissioners themselves have discussed the matter, of course. We have Commissioner Hall's testimony here. Will the Senator let me read just a sentence from it?

Mr. FESS. I yield to the Senator, of course.

Mr. PITTMAN. I do not want to intrude upon the Senator, but I think this covers the whole point. Here is what he said:

> We have here a phrase that "a rate which may be more or less water compelled." Is that reasonably compensatory or not? How is that to be interpreted? The common-sense interpretation would seem to be—I am speaking simply for myself now—one that was reasonably compensatory under the circumstances, and one of those circumstances would be that the carrier could not get any more.

When he testified there he was testifying before the United States Senate committee during the last session of Congress on Senate bill 2327, the Gooding bill. That committee had invited a representative of the commission to come and testify before it, and they sent Commissioner Hall, who was the chairman of the commission.

Mr. FESS. Mr. President, I was attempting to differentiate between fully compensatory and reasonably compensatory, the two ideas being different, but in the mind of the Senator from Iowa [Mr. CUMMINS] being the same. As to what is to be included in the element of cost to determine whether it is reasonably compensatory or not, may be a question of dispute. Not everybody agrees on that question with the Senator who has just spoken. In fact, the Interstate Commerce Commission does not agree with the Senator. To illustrate: The railroad has a cost bill that requires the maintenance of the road. That cost bill will be paid whether the road is making money or not. The railroad has a cost bill in the shape of interest paid on its bonds. That cost item will be paid whether the road is making money or losing money. The railroad has an item of cost in taxes. That item is going to be paid whether transportation is successful or unsuccessful from a financial standpoint. The railroads must maintain their offices and headquarters all along the line. They might reduce the overhead along those lines in keeping with the loss of revenue, but there is a portion that must be paid whether the rail business is profitable or otherwise.

Two-thirds of the bulk of the expense of carrying on transportation is composed of fixed charges that will be paid whether the roads are running at a profit or at a loss. The amount of traffic would very little affect that two-thirds. The additional amount of one-third, made up of the quantity of business, is where the profit comes in. That is precisely the point in dispute. Therefore I hold, if a road is hauling empty cars from the East to the West in order to bring back the products of the West to the East, that if in the empty cars going there could be placed something that would more than pay the cost of hauling the empty cars, the profit thereon would help in a degree to pay the interest on the bonds, and it might be sufficient to help to pay the taxes, it might be sufficient to help to pay the maintenance, it might be sufficient to assist in relieving the fixed charges, though it might not assist very much in the real cost of operation that might be called the haulage, and yet in that degree it is a profit to the road; otherwise it is a loss.

Mr. GOODING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Idaho?

Mr. FESS. I yield.

Mr. GOODING. I do not know whether the Senator was in the Chamber yesterday or not when I placed in the RECORD a table showing the empty-car movement in the United States and that the empty-car movement on the transcontinental railroads was less than in any other part of the country. Then, in answer to the Senator's question which he propounded about hauling freight for something less than the full cost, what we are complaining about is that the loss in order to get that freight shall not be made up at the expense of the interior.

Mr. FESS. That loss is not made up at the expense of the interior.

Mr. GOODING. Oh, yes, it is.

Mr. FESS. It is not made up on the interior. The interior pays the normal rate whether the coast pays normal or less than normal, which is not at the expense of the interior.

Mr. GOODING. Why, of course it is.

Mr. FESS. That is the difficulty with the Senator from Idaho. The one change of cost to the interior if the traffic to

the coast is lost to the lines is they will have to meet an additional cost in increased rates.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. FESS. I yield.

Mr. SMOOT. If that statement were true, then if the same rate applied to intermediate territory as to coast territory the railroad companies would make more than the law would justify them in making. Their profits would be unreasonable and could not be sustained under any law we have enacted here. If we had a rate for one-third of the distance and the same rate applied clear through that applied to the short haul, the profits of the railroad companies would be out of all reason. No court would justify it. If the people in the East, on the coast, were treated the same as the intermountain States are treated there would be an uprising, and it would not be a month before the whole situation would be changed. We are perfectly willing to pay the cost of the short haul with a reasonable profit, and even more than a reasonable profit, but we do not want to stand forever paying two and three times the amount that others are paying who are carrying on business in competition with us.

I want to say to the Senator from Ohio that if we are to be forever penalized, if we are to be the hewers of wood and the carriers of water all our lives, we ought to know it. We have been in that condition ever since I have been in public life. As a citizen of one of the intermountain States, with all the penalties placed upon us, with three-quarters of our lands withdrawn from State control, with our States unable to get a single penny of taxation from those lands and yet trying to maintain our State government upon taxes from 25 per cent of the lands in the State, and then to be penalized on everything that we ship in and everything that we ship out, I want to say that it seems to me the time has about come when the conscience of the American people will be stirred to such a point that there will have to be some relief granted. That is all we are trying to obtain through this legislation.

Mr. FESS. Mr. President, the Senator from Utah reminds me of a comment made upon Mr. Gladstone in which it was said that he throws as much force in a nonimportant issue as in the most important issue and unfortunately becomes as enthusiastic on a matter that is without foundation as on one that is with foundation. I am reminded now of what the Senator said the other day, that shocked me, in a colloquy between himself and the Senator from Pennsylvania [Mr. REED]. He made the statement that he could ship from his section of the country to San Francisco and then back through his own State to the East cheaper than he could ship from his own State directly to the East. I have made an investigation——

Mr. SMOOT. Oh, no, Mr. President, I made no such statement as that.

Mr. FESS. We have the RECORD.

Mr. SMOOT. Let the Senator take the RECORD and find it. What I said was that there was a time during which we could ship from New York or the East to San Francisco and back to Salt Lake City at the same rate that we could ship from the East direct to Salt Lake City. That is what I said.

Mr. FESS. The truth about the matter is that the rates from Chicago west are higher than the rates from Utah east, as the blanket regulations will show.

Mr. SMOOT. Certainly; that is the whole principle. Over the same road, hauling the same article, if a shipment goes west we have to pay more than if it were shipped to the West from the East. That is what we are complaining of.

Mr. FESS. And yet the Senator would have us believe that they are doing thus and so under the long-and-short-haul clause of the interstate commerce act when there has been no relief in his particular section by the giving of this preferential rate. There has been an application for it and he anticipates that it is going to be granted, and gives as evidence that it must not be granted what has taken place when it has not been granted.

Mr. SMOOT. If the Senator can point to one single case where relief has been granted, I would like to have him do it. I would like to have the Senator state what the rates are from the East to Wyoming or Utah or any of the Intermountain States, and then state what the rates are over the same road from the East to California and the Pacific coast.

Mr. SMOOT and Mr. GOODING addressed the Chair.

Mr. FESS. One at a time, please.

Mr. GOODING. While the Senator from Ohio is giving the information to the Senator from Utah will he put in the mileage and service given, because the railroads sell their service?

Mr. FESS. I will give the Senator that information.

Mr. GOODING. Very well.

Mr. FESS. The western railroads in making rates to move the products of the intermountain region to the populous markets of the East find it necessary to make low rates that will permit such products to be sold as against the competition of similar commodities reaching those markets from other sources.

I now desire to present a list of illustrative rates of this kind from points in Idaho to eastern cities. There are shown in each instance the rates, distance, and the cents per car-mile which these rates yield the railroads. The average appears to be 19.23 cents per car-mile. Similarly are shown the rates which the transcontinental lines propose to make if granted relief under the long-and-short-haul clause case now pending before the Interstate Commerce Commission, from Chicago and St. Louis territory to ports on the Pacific coast to enable interior-producing territories to reach Pacific-coast markets in competition with similar products coming to the coast by way of the Panama Canal.

The statistics give the same information as to the rates, the distance, and the revenue which will be earned per car-mile, averaging on these commodities mentioned, 22.1 cents per car-mile against 19¼ cents.

I will give the data that the Senator from Idaho has been asking for. The data will show that the railroads are now making lower charges to enable Idaho and Utah to market their products in the East than they propose to make to enable Middle West products to be marketed on the Pacific coast. The comparison is 19¼ cents per car-mile from the intermountain section east as against 22.1 cents per car-mile from Chicago west.

Mr. SMOOT. Mr. President, will the Senator from Ohio state at that point what the figures would be if the freight stopped in the State of Utah instead of going on to the Pacific coast? He will find the rates are quite different. That is what I am complaining of. I am not saying anything about freight which is being shipped east.

Mr. FESS. I will now give the Senator the information for which he is asking as to the situation when freight stops in his section of the country. I will, however, first consider the rates from the intermountain section to the East. On canned goods from Ogden to Chicago, 60,000 pounds minimum, distance 1,478 miles, 33.7 cents; on sugar from Ogden to Chicago, 60,000 pounds minimum, 1,478 miles, 28 cents per car-mile.

Mr. GOODING. I should like to say to the Senator that the figure 33.7 cents on canned goods is the per car-mile earning, and not the rate. The Senator did not state that as to canned goods, and I merely wanted to correct his statement.

Mr. FESS. That is what I meant.

Mr. SMOOT. But that is not what the Senator said, and I was going to make the suggestion.

Mr. FESS. The rate per car-mile is what I am talking about.

Mr. SMOOT. That is quite a different thing from the rate per hundred.

Mr. FESS. I did not say per hundred. The rate is 83 cents per hundred.

Mr. SMOOT. Yes.

Mr. FESS. But the rate per car-mile is 33.7 cents. Gooding, a city in Idaho, distinguished by being named for a great representative in this body, shipping alfalfa meal to Kansas City, has a rate of 49½ cents per hundred; minimum car, 36,000 pounds; distance, 1,289 miles; 13.8 cents per car-mile.

Mr. GOODING. I should like to say to the Senator that the people of Idaho for many years have been trying to get a reasonable rate to the Pacific coast—to Portland, for instance, a haul of about 600 miles. If they had a reasonable rate to that point they would be able to lay their alfalfa meal down in the southern ports and eastern ports for $6 a ton cheaper than they are under the rail rate to the East—not to Kansas City. We are denied the right to ship our alfalfa meal or anything else westbound at all. We are forced over this long haul to the East through a schedule of freight rates which are anywhere from 50 to 100 per cent higher westbound than they are eastbound.

Mr. FESS. Mr. President, the denial comes in this way: The rates on the goods shipped from the interior, the Mississippi Valley, through the Senator's State on to the Pacific coast will be found to be on the same level to-day as the rates from his town; that is the blanket rate about which the Senator complains so much.

Mr. GOODING. Yes.

Mr. FESS. At the same time when the railroads, so that they may meet with a compensatory rate their competitors through the Panama Canal, ask the privilege of having rates to the Pacific coast ports that would be lower than the rates for goods going to Spokane or to the city in Idaho, then the

jobber in a city in the intermountain section of the country who wants to buy in the East and have his commodities unloaded in the intermountain cities so that they may be distributed on the Pacific coast wants a rate on a basis which will enable him to ship such commodities to the Pacific coast, although they could go directly to their port destination without stopping in the interior town as cheaply as they could be landed at that point. That is the rub.

It is the interest of the jobber, who thinks only about the distribution of that which comes from the East on to the West, to want freight stopped there in order that he, rather than the consumer, may become the beneficiary. I do not object to his contention, but I do not propose to allow those making this contention to pull the wool over my eyes to benefit 3,000,000 people at the expense of 70,000,000 people.

Mr. SMOOT. Mr. President, will the Senator yield for just a moment right there?

Mr. WHEELER. Mr. President——

The PRESIDING OFFICER. To whom does the Senator from Ohio yield?

Mr. FESS. I yield first to the Senator from Utah.

Mr. SMOOT. The Senator says it is the dealer and the jobber who are interested. Let me call attention to the fact that the dealer and the jobber have nothing to do with it. I can cite instances here by the dozens to prove the accuracy of my statement. Can the Senator tell me why, if I wanted to build a hotel in Salt Lake City and I also wanted to build a hotel in San Francisco, the steel alone entering into the construction of the hotel built in Salt Lake City would cost $30,000 more than the same steel intended to be used in the construction of the hotel at San Francisco, although every ounce of it would have to pass through Salt Lake City in order to reach San Francisco?

Mr. GOODING. Involving a haul of many miles more.

Mr. SMOOT. Involving a haul 890 miles longer.

Mr. GOODING. And over a separate unit of railroad.

Mr. FESS. That is another statement that sounds very much like the one which was made the other day when the colloquy took place between the Senator from Utah and the Senator from Pennsylvania. I can understand why there should be a less charge to the Pacific coast than to interior points, provided it were permitted, but it is not permitted under the law now in operation except upon the approval of the rate-making authority, the Interstate Commerce Commission. Thus far this commission has not permitted anything of that sort.

Mr. SMOOT. I know that it has been permitted. I do not speak of conditions to-day, but I know that it has been permitted.

Mr. FESS. It is not the short-haul clause that permits it, because the short-haul clause specifically states that there shall not be a less amount charged for the longer than for the shorter haul unless the Interstate Commerce Commission shall permit it.

Mr. SMOOT. They permitted it; and not only that——

Mr. FESS. When did they permit it? They have not yet decided upon the petition now pending.

Mr. SMOOT. When we built the hotel to which I have referred it was permitted. I know what I am talking about.

Mr. McLEAN. When was that?

Mr. SMOOT. Ten years ago.

Mr. McLEAN. That was prior to 1917.

Mr. WHEELER. There is an application pending right now on behalf of the railroads asking that that be permitted.

Mr. FESS. There is an application pending, but the Interstate Commerce Commission has not as yet acted upon it. Senators are trying this matter before the Senate in order to prejudice, if possible, and bludgeon the commission to prevent their doing what many think they ought to do.

Mr. WHEELER. Not at all.

Mr. SMOOT. We think they ought to do justice to the intermountain country, while the other "we's" think that the intermountain country ought not to have it.

Mr. GOODING and Mr. McLEAN addressed the Chair.

Mr. FESS. I yield to the Senator from Connecticut.

Mr. McLEAN. Does the Senator from Ohio object to my calling to the stand the principal witness who appeared before the committee in favor of this bill on the proposition just presented by the Senator from Utah?

Mr. FESS. I would not object to anything the Senator might present.

Mr. McLEAN. I think it would be interesting at this point. Mr. James A. Ford, secretary of the Spokane Chamber of Commerce, appeared before the committee when this bill was being considered by the committee, and, I understand, was one of the principal witnesses upon whom the Senator from Idaho relied in favor of the bill.

Mr. GOODING. Yes, he was one of the principal witnesses in favor of the bill.

Mr. McLEAN. Let us see what he has to say about the situation referred to by the Senator from Utah [Mr. SMOOT]—

That condition existed until March 15, 1918. On that date by order of the Interstate Commerce Commission, the railroads ceased all violations westbound.

Mr. GOODING. Mr. President, I want to say to the Senate that there is no question about that statement; that is accepted.

Mr. McLEAN. But it does not seem to be accepted.

Mr. GOODING. It is accepted so far as the transcontinental rates are concerned.

Mr. McLEAN. I am glad if the Senator from Idaho is loyal to his witness.

Mr. WHEELER. We all accept that.

Mr. SMOOT. That statement relates to transcontinental business.

Mr. McLEAN. I think I will read the whole of this extract with the permission of the Senator from Ohio. Mr. Ford goes on to say:

The eastbound violations were yet to be dealt with. The westbound violations, however, were far greater and they came to an end on March 15, 1918, by a decision of the Interstate Commerce Commission finding that as there was no water transportation through the Panama Canal for two very good reasons—

I will stop the quotation there because I think it is important to interpolate that at the time that was due partly to the cessation of the water traffic through the canal.

Mr. SMOOT. It was during the war period.

Mr. McLEAN. Now, I will go on:

I am anxious to make that point very clear that for nearly eight years now we have had terminal rates. We are not trying to disrupt or change any conditions. We are seeking merely to maintain a condition that has existed for eight years.

Following the ironing out of the westbound violations we proceed by gradual degrees to get the eastbound violations ironed out, and the most important of these was wool—

The Senator from Utah will be interested in this—

The rate on baled wool from Boise, Idaho, to Boston, the wool market where the wool gravitates, was $2.14 per hundred pounds, while the rate on baled wool from Portland to Boston was $1.25 per hundred pounds. The Portland haul was 500 miles longer than the Boise haul. The railroads by their system of rates on wool in the West had forced the wool baling and scouring industry into Los Angeles and Portland. It is an actual fact that all during the war, when this Nation was crying for rolling stock and transportation of every facility, our western transcontinental railroads were actually hauling the Utah wool from Salt Lake City to Los Angeles, 800 miles and back over the same rails through Salt Lake City to the Boston market. They were hauling Idaho wool from Pocatello to Portland, 700 miles, and back over the same rails through Pocatello to the Boston market. The only way the Idaho wool grower could get to market was by way of Portland, while the Utah man had Los Angeles for his gateway.

That condition and the discrimination on hides and other commodities that move east has since been remedied. The eastbound wool rates were remedied by a decision of the commission about a year and a half or two years ago, which graded the rates with some regard to distance and opened the Boston market direct to the wool grower of the West.

So that to-day—

Says Mr. Ford, who was the principal witness of the Senator from Idaho before the committee—

we stand on a terminal rate basis, both east and west bound, and once again I want to emphasize that we are merely seeking to maintain this condition which now exists.

Mr. FESS. I am very much obliged to the Senator from Connecticut. He has included in the reading of the testimony some of the utterances that I——

Mr. GOODING. Mr. President——

Mr. FESS. I can not yield now, until at least I finish the sentence—some of the utterances that I had in the manuscript that I intended reading.

I ask unanimous consent to present a comparative table of the rates on goods going east in contrast to those going west, the matter that came up a moment ago.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

Earnings per car per mile on various commodities originating at Idaho and Utah stations destined to various consuming centers

Commodity	Origin	Destination	Rates	Minimum	Distance	Rate per car per mile
Canned goods and canned milk	Ogden	Chicago	$0.83	60,000	1,478	$0.337
Sugar	do	do	.69	60,000	1,478	.28
	do	Kansas City	.68	60,000	1,107	.368
Bullion	do	New York	.625	40,000	2,387	.105
Alfalfa meal	Payette	Kansas City	.56	36,000	1,465	.1376
	Gooding	do	.495	36,000	1,289	.1382
Cement	Ogden	San Francisco	.475	60,000	780	.365
Salt	do	do	.425	50,000	780	.271
Grain:						
Wheat	Payette	Kansas City	.62	60,000	1,465	.254
	Gooding	do	.55	60,000	1,289	.256
Corn	Payette	do	.56	45,000	1,465	.172
	Gooding	do	.495	45,000	1,289	.1728
Flour	Payette	do	.62	80,000	1,465	.3386
	Gooding	do	.55	80,000	1,289	.3413
Livestock:						
Sheep	Payette	Chicago	1.10	23,000	1,846	.137
	Gooding	do	1.055	23,000	1,670	.145
Cattle	Payette	do	.975	26,000	1,846	.137
	Gooding	do	.95	26,000	1,670	.148
Hogs	Payette	do	1.42	17,000	1,846	.131
	Gooding	do	1.345	17,000	1,670	.137
Lumber	Payette	Chicago	.685	44,000	1,846	.163
Wool	do	Boston:				
		In sacks	2.58	24,000	2,857	.218
		In bales	2.19	32,000	2,857	.245
	Gooding	Boston:				
		In sacks	2.46	24,000	2,681	.220
		In bales	2.09	32,000	2,681	.249
Vegetables:						
Potatoes and onions	Payette	Chicago	.83	30,000	1,846	.1333
	Gooding	do	.80	30,000	1,670	.1437
Other vegetables	Payette	do	.95	24,000	1,846	.124
	do	do	.95	20,000	1,846	.1023
	Gooding	do	.93	24,000	1,760	.1336
	do	do	.93	20,000	1,670	.1114
Hay	Payette	Kansas City	.665	24,000	1,465	.1089
	Gooding	do	.585	24,000	1,289	.1089
Fruit	Payette	Chicago	1.28	30,000	1,846	.208
Apples	Gooding	do	1.28	30,000	1,670	.23
Fruits, deciduous	Payette	do	1.50	24,000	1,846	.195
	Gooding	do	1.50	24,000	1,670	.215
Coal	Castle Gate, Clear Creek, Utah.	San Francisco	[1] 6.00	40,000	935	.1280
Ore	Brigham	do	[1] 7.74	30,000	801	.1449
	Promontory, Utah	do	[1] 7.74	30,000	833	.1394
Average						.1923

That is, 19.23 cents per car-mile, a little less than 19¼ cents.

[1] Per ton.

Earnings per car per mile on 12 commodities covered by Fourth Section Application No. 26

Commodity	Origin	Destination	Rate	Minimum	Distance	Rate per car per mile
Ammunition	St. Louis	San Francisco	$1.10	40,000	2,187	$0.201
Cotton piece goods	Chicago	Portland	1.10	40,000	2,248	.196
Iron and steel:						
Bar, band	do	Seattle	.80	80,000	2,185	.293
Plate and sheet	do	Los Angeles	.80	80,000	2,231	.285
Soda alumina sulphate	Chicago	Portland	1.00	50,000	2,248	.223
Paint	St. Louis	San Francisco	1.00	50,000	2,187	.228
Paper	Chicago	Los Angeles	1.00	40,000	2,231	.193
Pipe, wrought iron	do	Portland	1.00	40,000	2,248	.178
Roofing material	do	Seattle	.90	50,000	2,185	.206
Soap	St. Louis	do	1.00	60,000	2,252	.266
Sodium, etc	Chicago	Los Angeles	.75	60,000	2,231	.202
Pressed-steel car sides; structural iron	do	San Francisco	1.00	40,000	2,261	.176
Average						.221

That is, 22⅛ cents per car-mile.

Mr. FESS. Mr. President, I have been a student of the long-and-short-haul problem for years. Long before I saw the Halls of Congress, as a teacher in a university, this matter had come up in the political economy classes. The first suggestion of the right to charge less for a long haul than a short haul seemed to be wholly inequitable, and it rather shocked the uninitiated who had not studied into it, and for that reason I had gone into the matter very carefully. Consequently when it came up as a matter of legislation it was not new with me; but I must state that it never has been my fate to deal with a subject regarding which there seems to be more current misinformation and misunderstanding than this question of the effect of the long-and-short-haul clause and its administration by the Interstate Commerce Commission.

I desire to refer to a colloquy that took place in this Chamber when I was present between the Senator from Pennsylvania [Mr. REED] and the Senator from Utah [Mr. SMOOT]. The Senator from Pennsylvania said:

I would like to ask the Senator from Utah if it is not a fact to-day that it is cheaper to ship sugar from Ogden, Utah, to San Francisco and back through Ogden, Utah, to Chicago, than it is to ship it direct to Chicago over the same route?

Mr. SMOOT. I can not say that the rate is lower, but it is not greater.

Mr. President, I have made an inquiry on this point, and the fact is that the rate on sugar, in carloads, minimum 60,000 pounds, from San Francisco to Chicago (Transcontinental Freight Bureau Tariff, 3–S, I. C. C. 1154) is 91 cents per 100 pounds, and that the rate on sugar from Ogden to Chicago, in carloads, minimum 60,000 pounds (Western Trunk Line Tariff 159–C, I. C. C. A–1448) is 69 cents per 100 pounds. In other words, the rate on sugar, carloads, minimum 60,000 pounds, from Ogden to Chicago is 22 cents per 100 pounds less than from San Francisco. Yet, I think Senators engaging in this debate would have us believe—at least, it appears that way to me—that sugar could be shipped from Ogden to San Francisco, and back through Ogden to Chicago, as cheaply as it could be shipped direct from Ogden to Chicago; for the Senator said:

While I do not say that the rate is lower, I do say it is not greater.

Mr. President, there are some additional facts as to loading different amounts in the car which change the rate somewhat, but that does not change the principle at all.

The Senator from Utah, in reply to the question of the Senator from Pennsylvania, made the following statement. I was present and heard this—

Some time ago I wanted to buy a few carloads of wool and I went to San Francisco to buy it. After purchasing three or four carloads of wool, I went to the railroad and asked them what the rate on wool was. They said it was 75 cents per 100 pounds. They asked "Where do you want to ship it—to Boston or to Philadelphia?" I said "No; I want to ship it to Provo, Utah." They answered, "Oh, well, then the rate is $2.25." Three times the rate to the East and one-third of the distance. That is a case I have had in my own experience.

Mr. SMOOT. Does the Senator deny it?

Mr. FESS. I have gone into that matter to find out how it is possible. If it is possible, it must have occurred years ago.

Mr. SMOOT. It occurred years ago, and I said so.

Mr. FESS. It did not appear in the RECORD that the Senator said that it was some time ago.

Mr. SMOOT. It was when I was buying wool, and I have not bought any wool for a great many years.

Mr. FESS. Let me ask the Senator from Utah if it is not true that no wool is shipped to-day from San Francisco overland to Boston? In other words, has not the Panama Canal route monopolized the entire traffic in wool?

Mr. SMOOT. I should think they would, although I do not know. I have not been in the wool business for years and years; and I want to say to the Senator that every word of that is true.

Mr. FESS. Mr. President, I consulted the Interstate Commerce Commission on the matter. Let me give you the information that they give me.

The present rates on wool——

Mr. SMOOT. I am not talking about the present rates. I am talking about the experience that I had, and I say that what I stated was an absolute fact.

Mr. FESS. We are talking about the situation to-day. That is the way legislation must be conducted.

Mr. SMOOT. I have not shipped any wool for a good many years.

Mr. FESS (reading):

The present rates on wool in grease, compressed in bales, are, from San Francisco to Provo $1.35 per 100 pounds, and to Boston and Philadelphia $2.30 per 100 pounds. We have made no examination of the rate from San Francisco to Provo and eastern points prior to January 1, 1917, but since that time the rates to Provo have been lower than the rates to eastern points.

The following is quoted also from Commissioner Esch's letter, which I have just read. The commissioner says:

May I add in conclusion that Senator REED'S understanding of the situation on the Pacific coast, as indicated by his inquiry of Senator SMOOT, is also erroneous. There is no adjustment of rates which would permit sugar or any other commodity to be shipped from Ogden, Utah, to San Francisco and thence back through Ogden to Chicago at a lower charge than would be produced under the rate from Ogden direct to Chicago. On the contrary, the rates from Ogden and other interior points are generally lower than from San Francisco and in no case are higher than the rates from that point to Chicago. For example, the rate on sugar in carloads, minimum weight 60,000 pounds, from Ogden to Chicago is 69 cents per 100 pounds, and from San Francisco 91 cents per 100 pounds.

Mr. NORRIS. Mr. President, may I interrupt the Senator?

Mr. FESS. I yield to the Senator.

Mr. NORRIS. I should like to ask the Senator now whether he agrees with the principle underlying the rates that he has just enumerated. Are they right?

Mr. FESS. The question of rates, I will say to the Senator, is a matter for experts.

Mr. NORRIS. I understand; and let me explain my question.

Mr. FESS. The Senator may know enough about it to ask the question, but the Senator who has the floor is not a sufficient expert to say whether this particular rate is too high or too low; and it is for that reason that I do not want to bring the subject here to be handled by this group rather than leave it with the commission.

Mr. NORRIS. I did not make my question plain. I do not expect the Senator to give information as to whether this rate or that rate is right. I would not know, and I do not suppose he does.

Mr. FESS. No; I do not know. I thought that was what the Senator wanted.

Mr. NORRIS. No; that was not what I was trying to get at. The principle behind these rates, though, is that the charge for the short haul is not greater than for the long haul in the rates that the Senator has just read. Does he agree that that principle, as applied to these rates, is right?

Mr. FESS. I do not know as applied to these rates. As a general principle, I think that the principle of allowing a less rate for a longer haul than for a short haul to meet competition is sound, if that answers the question.

Mr. NORRIS. Yes; I understand that that is the Senator's position; but if that be his position now, then the commission made a mistake in changing the rates as they used to exist at the time the Senator from Utah had his experience.

Mr. FESS. The commission might have made a change and canceled the original rulings because conditions might have changed sufficiently to justify it.

Mr. NORRIS. I am led to ask my question because the Senator from Utah gave an illustration that happened some time ago where the rate for the short haul was a good deal higher than for the long haul. Now, the Senator is answering that statement of the Senator from Utah by saying that that rate does not exist now; so I take it that the Senator himself agrees with the Senator from Utah that that rate ought not to exist.

Mr. FESS. It does not exist between certain sections and the Pacific coast. It does exist in many interior places.

Mr. NORRIS. Let us take the sections to which these rates apply. The Senator says it does not apply now, and I assume that the Senator is correct. Then the thought at once arises in my mind that the Senator must have agreed with the Senator from Utah that those rates were wrong, because he answers his statement and says: "That is not the case now. The rate for the short haul is not higher than that for the longer haul now."

Mr. FESS. I appreciate fully the irony of the Senator from Nebraska.

Mr. NORRIS. No, no; I want to disabuse the Senator's mind. There is not any irony in it. I am seeking for information entirely. I am asking my question in the best of faith; but I could not help reaching that conclusion. That is the Senator's answer to the argument of the Senator from Utah; and I assume from that that the Senator himself goes on the theory that the condition narrated by the Senator from Utah is no reason for the enactment of this legislation, because it does not exist now.

Perhaps I can make my question plainer.

Mr. FESS. Mr. President, Edmund Burke once said that no lawyer ever became a great lawyer who dealt merely in technicalities. I think it is beneath the dignity of a discussion like this to endeavor to change the course of a discussion that is trying to deal with fundamentals by narrating some particular incident of which I may not have any information whatever, and which does not apply to the question at issue.

Mr. NORRIS. But the Senator is dealing with that kind of an incident. He is taking up the Senator's statements, and I am confining my question to them.

Mr. FESS. I am dealing with the general question of the commission's discretion under special cases to allow a less rate for a longer haul than for a short haul, which the pending proposal forbids.

Mr. NORRIS. Exactly; but the Senator himself has taken this incident to which the Senator from Utah referred. He reads from the RECORD the statement of the Senator, and he points out a certain state of facts, I take it as an answer to it; and I am not saying that it is not an answer. I am not criticizing the Senator's argument; but he points out that that state of affairs does not exist now. Are we to assume from that that the Senator thinks it was wrong? And does not the Gooding bill, which we have now before us, put into law something that would make it impossible to allow that kind of a rate to exist?

Mr. FESS. Mr. President, I do not yield any further on this matter. It is an amusing exercise of mental gymnastics to see the Senator from Nebraska going around in a circumlocution and ultimately saying that "the Senator now says that the position is wrong." The Senator who has the floor has said nothing of the kind. The Senator has stated the facts in contravention of the statement made by the Senator from Utah the other day, without any comment as to whether this particular thing is right or wrong. I am dealing with the proposal to transfer the rate-making power from a commission of experts to the floor of Congress.

Mr. McLEAN and Mr. GOODING addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield; and if so, to whom?

Mr. FESS. I yield to the Senator from Connecticut.

Mr. McLEAN. With the Senator's permission, I will call to the stand the Senator from Idaho [Mr. GOODING], who, I think, will answer the question propounded by the Senator from Nebraska: "Assuming that existing conditions are satisfactory, will the enactment of this law perpetuate those conditions?" I think that was, in substance, the question of the Senator from Nebraska.

On page 166 there is a colloquy between Mr. Farrar, who was a witness in opposition to the bill, and the Senator from Idaho:

Mr. FARRAR. May I make one suggestion in conclusion? I would like to address this particularly to Senator GOODING. The ills which we have, or which we think we do have, do not at the present time relate to any fourth-section departures. We have none on transcontinental business.

Senator GOODING. Are you speaking now of your industry?

Mr. FARRAR. I am speaking of my industry and the whole of our section of the country and surrounding it. There are no fourth-section departures on transcontinental roads at the present time. So if we are suffering we are suffering from something other than the long and short haul.

Senator GOODING. But we had a commissioner before this committee this morning who showed very conclusively that the majority of the commission was in favor of those violations. I am not going to argue the point, because I do not think we can develop in the interior as long as there is even danger of violations, because I do not think you can have capital to invest there.

Senator CUMMINS. Well, I suggested what I did not because I am not in favor of this bill, because I am.

Senator GOODING. I understand.

Senator CUMMINS. But because, in my judgment, we will not have solved the problem with the passage of this bill.

Senator GOODING. I agree with you there.

Mr. GOODING. Will the Senator yield?

Mr. FESS. I yield.

Mr. GOODING. Not all the problems of transportation. But it would solve them as far as the long and short haul is concerned.

Mr. McLEAN. The Senator did not say so.

Mr. GOODING. That is what I meant, of course, and there is no doubt that that is my position. Senators do not question it, and I do not think the Senator from Connecticut questions that that is my position, that this bill will solve the long-and-short-haul problem.

Mr. McLEAN. Well——

Mr. GOODING. Wait a minute. I want to thank the Senator for being kind enough to place in the RECORD the statement made by Mr. Ford, which shows conclusively what the interior territory of the West has been suffering from and what we have been fighting against, just exactly as was stated by the Senator from Utah. We have been fighting those things for years. There was a time when they actually hauled all the freight to the Pacific coast and brought it back again when they performed that service.

Mr. SMOOT. They did it many a time.

Mr. GOODING. It has been a battle for 40 years and we have been winning our fight right along, but all through the interior there are hundreds of violations. I want to thank the Senator, because I want to know his position, and I have it when he says:

You are trying to bludgeon the commission and drive them to do something, or not to do something, that we believed they ought not to do—

and at the same time these violations on 47 different commodities are under consideration. So I take it for granted that the Senator from Ohio believes that those violations ought to be granted the transcontinental railroads. Am I correct?

Mr. FESS. I am not on the witness stand, but I will satisfy the Senator nevertheless. Each of those 47 petitions now before the Interstate Commerce Commission is to be considered on its own bottom, and I believe that the ability of the commission, knowing the transportation problem better than any Member on the Senate floor, although they do not talk nearly so much about it, is such that they are better qualified to grant the relief or to deny it than any of us, and if they see fit to do it, I assume it will be justified, and I should not, with my limited data or information on the matter, resist the commission's findings. That is my answer to the Senator from Idaho.

I must not allow this to run along this way, Mr. President. I do not want to be in the slightest degree indelicate in the matter, or seem to be without courtesy to my colleagues, but we see where this thing will go if I do not take the bull by the horns. I think I had better make my speech now, and let other Senators make their in this own time.

Mr. McLEAN. Mr. President, will the Senator yield to me for just one quotation?

Mr. FESS. Yes.

Mr. McLEAN. I think this is very interesting. I would like to know what the proponents of this bill are after, and what they do want. The Senator from Idaho has explained the position which he took before the committee, to the effect that this bill would not accomplish the purpose which he seeks.

Mr. GOODING. Oh, now, Mr. President——

Mr. McLEAN. Or would accomplish it.

Mr. GOODING. I do not want to be misunderstood or misquoted.

Mr. FESS. I yield to the Senator from Idaho.

Mr. McLEAN. It would accomplish the purpose which he seeks.

Mr. GOODING. Yes. Let us have an understanding.

Mr. McLEAN. The Senator from Iowa I have already quoted, but I will requote him:

Senator CUMMINS. But because, in my judgment, we will not have solved the problem with the passage of this bill.

Now, I want to ask the Senator from Iowa a question. He stated yesterday that he was in favor of the bill and, if I understood him correctly, it was because the Interstate Commerce Commission had given to the term "reasonably compensatory" a construction which he did not believe was right, not the construction which he gives or which he believes the commission should give. I want to ask the Senator from Iowa, if the term were given the construction which he approves, would he be in favor of permitting a departure which would in any instance permit a lower charge for a long haul than for a short haul?

Mr. FESS. I beg the Senator's pardon. I do not want to enter into that colloquy at this time.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. CUMMINS. I would be quite willing to reply.

Mr. WHEELER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Montana?

Mr. FESS. If I yield, I will have to yield to the Senator from Iowa.

Mr. McLEAN. I would like to have the Senator from Ohio give the Senator from Iowa an opportunity to answer the question, because I think it is very important. The question is, if under any condition the Senator from Iowa would permit these departures.

The PRESIDING OFFICER. To whom does the Senator yield?

Mr. FESS. I yield to the Senator from Iowa.

Mr. CUMMINS. I will not trespass upon the Senator's time to fully answer the question propounded by the Senator from Connecticut, but it is perfectly obvious that the bill will not reach all the cases in which more is charged for a short haul than for a long haul. This applies only to the influence of water competition. There are thousands of instances in which the charge for the long haul is less, indeed, than the charge for the short haul, that will not be touched by this bill. It can not, in the very nature of things, touch them. That is the reason I said the question would not be settled by the passage of this bill.

Mr. McLEAN. The Senator has not answered my question. We are assuming that the competition is between the water carrier and the land carrier.

Mr. CUMMINS. But that is not true. Very much of the competition is between land carriers.

Mr. McLEAN. I know, but this bill covers that character of competition.

Mr. CUMMINS. Between water and land; yes.

Mr. McLEAN. The question I asked the Senator was this: If the Interstate Commerce Commission gave to the term which he put in the bill a proper construction, would he in any case permit a lower charge for a longer haul, where there is water competition?

Mr. CUMMINS. No; if I understand the question correctly.

Mr. McLEAN. I do not see any distinction in principle between the competition on land and on water.

Mr. FESS. I think the Senator from Iowa answered the question in accordance with his statement last night.

Mr. WHEELER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Montana?

Mr. FESS. Yes; for a question.

The PRESIDING OFFICER. The Senator yields for a question only.

Mr. WHEELER. The Senator said that he felt that it should be left to the Interstate Commerce Commission to deal with each particular case. We are about to vote upon the confirmation of a commissioner to go upon the Interstate Commerce Commission, a man who has been a director of two railroads and who is recommended for appointment by another man who is a director in a large number of railroads. He is going upon that commission, according to his own statement, with preconceived ideas with reference to this long-and-short-haul problem, because he is opposed to this bill and is in favor of giving fourth-section violations.

That is one of the reasons we are opposing him. So I submit, under those circumstances should we leave the question to a commission which already has its mind made up in advance with reference to these matters?

Mr. FESS. Mr. President, I have never considered ability and experience as disqualifications for appointment to office. The more a man knows and the more capable he is, no matter whether I agree with him in all of his findings or not, the better qualified I think he is for a position, and that fact is not sufficient ground for rejection, in my opinion, when any position of such honor and trust as the one referred to is tendered a man.

Mr. WHEELER. The Senator does not answer my question.

The PRESIDING OFFICER. Does the Senator further yield?

Mr. FESS. Now I think I must insist upon using some of my own time.

We might as well come directly to the real situation now at issue. I will refer to some incidents that will be concrete, which will give us a little more clarified view of the problem. There are connecting lines from the Twin Cities to Butte, Mont., representing the Milwaukee, and the Northern Pacific, and with a branch line, the Great Northern. Two of the roads cover about the same distance. The other one travels a much wider field, and therefore has a much longer haul. If we refuse to allow the Great Northern to make the same rate for traffic going out of the Twin Cities to Butte that is made by its two competitors, with the shorter haul, then the Great Northern must abandon that field entirely, to injury to itself and detriment to the public, because the railroads are about the same in efficiency and there is not a sufficient advantage to one in service above the other that would justify going over the longer haul and paying a higher rate. But in case the equal rate is allowed to Butte on condition that the Great Northern is required to place the same or a lower rate upon intermediary points that it places upon its destination, then the road can not operate profitably. The only basis, it would appear, on which the Great Northern could have any of the traffic going from and to these points, would be relief under the fourth section. If and when this relief is granted by allowing it to charge the competitor's rate to one destination, but a higher rate to a nearer point, I would like to know how it is an injury to the interior point which pays the same rate whether relief is granted or denied. I do not see the philosophy and I can not understand the logic of that conclusion.

I was looking over a case that came to our attention recently in the hearings. The town of Aberdeen, in Washington, is quite a little distance from Portland, Oreg. But Aberdeen is five times farther from San Francisco than it is from Portland. San Francisco and Aberdeen are connected by water route, and therefore water transportation between the two points is a competitor of rail connecting Aberdeen with Portland, although one-fifth of the distance. The rate over the water route is cheaper than the rate over the rail; and if the carrier out of Portland wishes to get any of the trade to Aberdeen, he must meet the competitive rates of the water route; but if the fourth-section relief is denied, then whatever be the rate to Aberdeen from Portland, it must be equal to or lower to Centralia, a shorter distance from Portland.

I would like to know where the injury comes to Centralia if the shipper is given from Portland to Aberdeen a lower rate to meet the San Francisco competitor but does not give the reduction to Centralia. How can lowering the rate to Aberdeen injure Centralia by leaving the rate as it has always been? I do not see the logic of it. I can multiply these cases by the hundred.

Let me illustrate with a different item which came out in the hearings recently.

In Wisconsin there is a great paper manufactory. This is a classic illustration that has often been quoted. The paper manufactory used to supply the market in New Orleans. New Orleans is an ocean port. The Norway paper mills can supply New Orleans. It was developed that the Norway manufactory could deliver print paper in the city of New Orleans cheaper than the Wisconsin manufacturer could lay it down there over the railroad. The Wisconsin manufacturer, feeling the keen competition of the foreign manufacturer, appealed to the Interstate Commerce Commission for fourth-section relief. The Interstate Commerce Commission, whether wisely or unwisely, refused it, and made the statement as final that if they made a rate to New Orleans the intermediate rate could not be higher. What is the consequence? The Norway shipper is supplying the New Orleans paper requirements at the expense of the Wisconsin shipper, who has been compelled to withdraw from the New Orleans market and to depend wholly upon the interior points, giving a foreign producer the monopoly as against an American industry. I want to know where the injury would have been to the interior points by continuing the normal rates as they were and are and making a lower rail rate to New Orleans to meet the water rate from the foreign manufacturer? What injury is there in giving New Orleans two channels, one of which passes through the interior points? I think there is no ground that is logical for such a denial, and yet the Interstate Commerce Commission denied it. That will be pleasing to the Senators from the intermountain country, although it seems to me that the privilege ought to have been granted.

From the State of Iowa there are shipped great quantities of canned goods. Canned goods are among the chief products of Iowa. Iowa is in competition with Maine in the same business. Maine ships through the canal to San Francisco, Seattle, and Portland. Maine ships at a lower rate by water than Iowa can ship over rail to any of those points. What is the outcome?

Without the fourth-section relief, which has not been granted to Iowa, the Iowa canneries are entirely out of the market on the Pacific seaboard and confine their sales to interior points. I hold that it would be no injury to any town or country through which the coast traffic passes to make a rate that would enable the Iowa canneries to find a market on the Pacific coast, but it would be an advantage to the interior points, as well as a distinct advantage to Iowa and the seaboard population.

These are only a few of the evidences that came to us through the hearings that had stretched over the years in the consideration of the question. I want to take up another item. Let us take the eastern section of the country. Virginia and West Virginia can ship coal to Hampton Roads by rail, load it on the boat and land it in Boston for about $4.25 per long ton. The Clearfield mines, in western Pennsylvania, about as rich as any mines in the country, are not on a water line. They must ship over an all-rail route, and if they get any of their coal from the Clearfield district to Boston they will have to meet the competition by the rail-water route from Virginia and West Virginia by way of Hampton Roads and the sea. The rates are about $4.85 per long ton from the Clearfield district. That immediately shuts off from the Boston market the Clearfield shipper, or the rail shipper, because he can not ship at such an additional cost when the Boston consumer can get his coal at so much less cost. Therefore he asked that he be given fourth-section relief in order that he could get a rate from the Clearfield mines to Boston equal to the rail-and-water rate through Hampton Roads. He said:

> If I have to reduce my rate to Springfield and other inland towns where there is no water transportation to make it equal to or less than the rate to Boston, it will be impossible for me to carry the business profitably and we will have to go out of the Boston market entirely.

Let me ask where is the injury to the interior point? There is a charge per long ton of $4.25 from the Clearfield mine to Boston and a greater charge from the Clearfield mine to Springfield, which would be 80 miles this side of Boston. How is Springfield injured? I do not understand such logic, and yet it is said that it is taken off of the consumer in Boston and put on the consumer in Springfield. Where is the logic in such a statement?

Mr. GOODING. Mr. President——

Mr. FESS. How would the Springfield consumer get his coal any cheaper unless he were on a competitive line with the ocean? He is not on the ocean. We can not move the ocean to him and we can not move the city of Springfield to the ocean. It is a question whether it would not be wise for the general public that we grant the fourth-section relief and allow Boston to buy from two sources rather than limiting it to one.

I now yield to the Senator from Idaho.

Mr. GOODING. The people of the interior make up the freight rate as between the long and the short haul.

Mr. FESS. O Mr. President, I have heard that until it is nauseating.

Mr. GOODING. Will the Senator yield a moment and allow me to answer his question?

Mr. FESS. Yes; I yield.

Mr. GOODING. I have a letter from a city in Connecticut in which it is said that they have saved $176,000 a year through violations of the fourth section. If they were saving $176,000 annually through such violations, somebody in the interior in the smaller towns that do not have water transportation paid more for the coal which they burned to keep them warm than the people in this city in Connecticut paid. Is that right?

Mr. FESS. That shows the peculiar attitude of reasoning of the Senator from Idaho. Because Boston is favored in location by being a port on the sea and can use two channels of competitive commerce and therefore get her coal for $4.25 freight, where Springfield pays $4.80, he says Boston steals from Springfield. Where does the Senator get any such idea as that?

Mr. GOODING. It is easy to understand.

Mr. WHEELER. Mr. President, I can give the Senator an illustration of that principle.

Mr. FESS. I yield to the Senator from Montana.

Mr. WHEELER. The railroads made application for a fourth-section violation with reference to steel. They were charging $1.20, and they wanted to charge the coast $1. They represented that they could not reduce the rate to the interior country to $1, the same as they were giving the coast. The Interstate Commerce Commission denied them fourth-section relief. After the denial of that relief under the fourth section they reduced the rate on steel from Chicago to all of the intermountain points and clear through to the coast. When they did that, the Seattle and Portland Chambers of Commerce came in and protested against their giving the same rate to the interior points that they were giving to the coast points. Does not that prove the point?

Mr. FESS. I have not examined that situation, and I do not know why they would protest.

Mr. WHEELER. They did protest. That is the fact of the matter.

Mr. FESS. The only thing I could see that might be the source of their protest would be that they would prefer to have two lines rather than only one.

Mr. WHEELER. But why should they protest against the interior getting as cheap rates? In Montana we are some 800 to 1,000 miles from the coast. They protested against Billings, which is over 1,000 miles from the Pacific Coast, getting as cheap a rate as they were getting. Why? It was because they wanted to protect their jobbers.

Mr. FESS. Let me go into the particular phase of the discussion with reference to the interior having to bear the burdens of those who live on the coast. That is the idea that has been bandied from one to another until a lot of people have evidently come to believe that it is true.

Mr. GOODING. Will the Senator yield? I wonder if I may make clear to the Senator's vision the position of the interior so that he will not be laboring under a misapprehension.

Mr. FESS. I think the Senator with four hours' speech yesterday had ample time to clarify all of his points.

Mr. GOODING. I am sure the Senator does not want to labor under a misunderstanding.

Mr. FESS. If I could not get it yesterday in four hours I could not get it now in five minutes.

Mr. GOODING. I can give it to the Senator in a minute, if he will listen.

Mr. FESS. Very well; I will listen.

Mr. GOODING. The point was well brought out by the Senator from Montana [Mr. WHEELER] that the Pacific coast objected to the interior having the same freight rates. What the interior is fighting for is that we simply want the rates to the interior to be such to serve our own people in order that we may maintain our jobbing houses there.

Mr. FESS. Oh, I understand that. The Senator discloses the source of the agitation, well understood by those who have studied the subject.

Mr. GOODING. We want to maintain our manufacturing institutions. If the Senator will look at it in that light, he will find that we are just as much American citizens as the people on the Pacific coast and entitled to the same rates, the same privileges, and the same opportunities. He can catch the vision very clearly when he knows that the people on the Pacific coast say to the people of the interior, "You shall not have the same freight rates that we have. You shall pay more for a lesser service than we have here on the coast." That is all there is to the whole subject. It is simple.

Mr. FESS. That is only repetition of what I have heard half a dozen times. There is nothing new in the Senator's statement.

Mr. GOODING. It is a simple proposition, but the Senator can not understand it even with all the repetition.

Mr. FESS. That may be true. I may be very stupid. I will admit that I am. If I am not, I may be stolid. Speaking of the great relief that is being sought for all the transcontinental freight from seaboard to seaboard in competition with the water rate, a few observations ought to be made.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Will the Senator from Ohio permit an interruption by the Senator from Montana?

Mr. FESS. I yield.

Mr. WALSH. The illustration the Senator gave concerning the situation in Boston with reference to sources of coal supply interests me, and particularly his statement about Boston being upon the ocean, that the ocean could not be moved over to Springfield or Hartford, that nature favors Boston in her location and she ought to have the benefit of that situation, and so she ought to have two sources of supply for coal. But does it not occur to the Senator that if a coal mine is located naturally in a place where it has an advantage over another coal mine that is located disadvantageously, the same reasoning ought to apply? Apparently the coal mines that can get their products out over the Rodgers route to Hampton Roads are fortunately located. Many other sources of supply are fortunately located. The Senator apparently wants to take away from those coal mines the advantage which nature gave them with respect to transportation and put them upon the same footing as some other coal mine that is not so fortunately situated.

Mr. FESS. Oh, no.

Mr. WALSH. But he wants to give Boston the advantage that nature gave it. Why does not the rule work both ways?

Mr. FESS. The Senator is misconstruing. I am not wanting to give advantage to one coal mine over another. I am simply wanting to give the two sections the same outlet at the same point. We do not take it away from one when we give it to the other.

Mr. WALSH. But the Senator wants to put the Pennsylvania coal mine, which is located disadvantageously with respect to transportation in exactly the same situation as the West Virginia coal mine that is located fortunately with reference to transportation. I do not object to that; I am not finding fault with that.

Mr. FESS. I take nothing from the West Virginia mine and give it to the Clearfield mine. I am simply proposing to open the same port to both of them.

Mr. WALSH. Exactly; and the Senator is giving to Boston what he says is a natural advantage by reason of location over Springfield, but he will not give to the West Virginia mine the natural advantage over the Pennsylvania mine that nature gave it.

Mr. FESS. I take nothing from the West Virginia mine. I am simply giving the privilege of an outlet to the Clearfield mine. I propose to benefit both mines. I take away nothing from any mine and I do not propose to injure the West Virginia mine.

Mr. WALSH. I am talking about taking away or giving.

Mr. FESS. We can not very well give without taking away.

Mr. WALSH. The Senator says that Boston is favorably located by nature, which of course is true. It is so situated that it can get its supplies either by rail or by water. So it is fortunately situated by nature as against Springfield, and that natural advantage ought to be preserved, the Senator says, and legislation ought not to take it away. So a West Virginia mine is naturally so located as to have an advantage over the Pennsylvania mine, but the Senator will not apply that rule to that mine.

Mr. FESS. The Senator from Montana falls into the same error that others have fallen into. We are taking nothing away from Springfield.

Mr. WHEELER. You are taking away their natural advantage of being nearer, are you not?

Mr. FESS. They have no natural advantage of seaport to be taken away.

Mr. WHEELER. You are taking away from Butte her natural advantage.

Mr. FESS. That is simply the use of words without meaning. We take nothing away from Springfield. Springfield would not get freight a cent cheaper if there was not any Boston. She would pay the same amount, and, I fear, she would pay more. So instead of taking it away from the inter-

mountain country we are making it possible for them to recoup. That is the point I want to discuss at this time.

Speaking of these transcontinental roads, it is stated by the experts that water transportation compared with land or rail transportation is about one to six in expense, or that freight can be carried on water 6 miles at the same expense that it would require to carry it 1 mile over rail. In other words, the cost of transporting freight by water from the Atlantic seaboard to the Pacific seaboard, 6,000 miles, would be similar to carrying overland a thousand miles. So that, so far as freight rates are concerned, San Francisco is as near New York by water as Chicago is near New York by rail; and yet there has been no desire to make a rate between the Atlantic seaboard and the Pacific seaboard at such a low figure as to injure the Panama Canal. On the other hand, people who are served by both rail and water are better off than if served by only one, and wherever it is possible to make the competition such that both channels of transportation may be utilized it is better for the public welfare that it should be done.

To-day I am told by the experts that 90 per cent of the seaboard traffic from the Atlantic coast to the Pacific coast is carried over water, and that only 10 per cent is carried over rails. Only that portion of it in which time is an element, where speed is desired in order to make quick delivery is transported by rail; all the remainder of the traffic goes by water. I am finding no fault with that. I am for building up and maintaining the water routes. I have always been for that. I am also for maintaining the integrity of American railway business, for we can not live very long without it. For that reason I want to maintain together with the water route also the rail route.

Mr. President, without entering into the sentiment that is involved, I desire to say that this country is a continental country. The people do not all live on the seaboard. The large mass of population lives inland. This being a continental country, it must be served by continental transportation lines. That is the very genius of American life. Transportation is our second greatest industry, agriculture being the first. I want to maintain an uninterrupted transcontinental system overland, if for no other reason than for national-defense purposes, in case we might again at some time have a difficulty with some foreign country. Therefore I am very much averse to making it possible for one system of competitive transportation to drive out of existence the other, and I am just as anxious for the maintenance of water transportation for its proper field as I am for the maintenance of land transportation for its service.

I want now to call the attention of those living in the intermountain section to the policy they are here indorsing. To say nothing about the millions who live outside of the intermountain region, I think that it is not for the best interest of the people who live in the intermountain country. What is it that the intermountain citizen wants? After he produces his products, after he raises his crops, he wants a market; and the present situation in the Northwest, suffering from a failure to rehabilitate agriculture, is emphasizing this very problem.

The margin between what a people consume and what they produce is the element of profit. Therefore, those living in the intermountain section are not half so much concerned about the freight on the inbound traffic as they are about the freight on the outbound traffic. Inbound traffic represents consumption, while outbound traffic represents production, and the difference between consumption production in a degree measures the prosperity of the community. If the intermountain section does not produce as much as it consumes it will die. If the intermountain section produces more than it consumes, to that degree it is prosperous. Therefore, the interest that those living in the intermountain section should have is, "How much can we produce and what is the best rate on the outbound traffic of our production"? They should not be concerned so greatly about "how much do we consume and how much do we have to pay on the inbound traffic"? With that in view let me give one or two examples.

Mr. WHEELER. Mr. President, will the Senator yield to a question?

Mr. FESS. I beg the Senator's pardon, but I have a thought which I wish to present to the Senate, so I do not want to be interrupted at this point.

Mr. WHEELER. Very well.

Mr. FESS. I wish to give the Senator one or two examples. The intermountain region is distinctively productive, more so than it is consuming. While it does not produce so much of what it consumes, it does produce an immense amount that other sections of the world consume. Therefore it is very much concerned about the freight situation and the traffic that goes out upon which it makes its profit.

In the Northwest there are great lumber interests. Listening to my friend from Idaho the other day and his reference to the lumber interest, I feared that he might have some prejudice in the matter; but nevertheless we had before our committee a representative of that industry, and he gave information that was not only rather voluminous but most illuminating. He said that the company in which he was interested had an investment of half a billion dollars; that it made at least $100,000,000 worth of lumber, which was shipped to other portions of the country every year; that its pay roll amounted to $30,000,000 plus; that its freight charges were $25,000,000 plus; that the amount paid by it for raw material shipped in from other sections to make its business a going concern amounted to another $30,000,000. That makes a very prominent, significant source of production in that great section.

Mr. GOODING. Mr. President, I wonder if the Senator will yield to me for just one remark which I wish to make? If so, I want to assure the Senator, my own people, and the world that I am not prejudiced against the great lumber industry of Idaho. In that State we have the greatest white pine forest in America. We are very proud of our lumber industry, and we encourage it in every way we can.

Mr. FESS. I am very much obliged to the Senator, and I think he ought entertain exactly those views.

Mr. WHEELER. Mr. President, may I interrupt the Senator to say that the lumber interests in my State are in favor of this bill?

Mr. FESS. I am surprised that the lumber interests of the Senator's State do not know what is to their interest.

Mr. WHEELER. If Senators would leave the interests of those living in the Northwest to be taken care of by the representatives from that section, we would get along fine.

Mr. GOODING. Mr. President, I should like to say that nearly half of the lumber interests in Idaho are for this bill. I want that to go with the statement in regard to the lumber interests of Montana.

Mr. WALSH. I wish to assure the Senator that the lumbermen in Montana are pretty sagacious gentlemen.

Mr. FESS. Mr. President, in the month of July, I think it was, of last year the testimony showed that there were seventeen thousand plus cars that went from the East to the West. Of the 17,000, six thousand plus were loaded. That means 11,000 of the cars in that month traveled from the East to the West empty. Why? In order that those who live in the West can find empty cars in which to ship back their products to the East. To carry empty cars across the continent is an enormously expensive operation; and yet here is nearly 75 per cent of the haulage of freight cars to serve the intermountain country and the other sections traveling at a hopeless expense, without a dollar of income.

What does that mean? The representative before the committee said:

> Our difficult problem is to get empty cars.

Why is that? Because it is expensive for the railroads to ship across the continent empty cars. If, on the other hand, the railroads were permitted to make a rate in Seattle, Portland, San Francisco, and other coast ports to meet the water competition, and thus carry some freight across the intermountain country to the coast, those empty cars would not be a dead loss, but they would be a source of profit. It would not hurt anybody, because they would have to be loaded at a rate that is reasonably compensatory, or they could not be loaded at all.

I insist that if the railroads of the country are compelled to carry three-fourths of their cars across the continent empty—that is not a general rule; that is only one month that was given us—then the loss of revenue to the railroads must be made up by the shipper; and if the people in the intermountain country, whose chief interest is in the export or outbound traffic, would agree to having these empty cars loaded, even though at a less rate than is paid at Spokane, the amount that the railroads now must make up would not be necessary, because the rate would be more than self-supporting. A denial of this privilege does not only prevent any rate reduction but is the basis of the demand for rate increase.

I hold here, as a student of this problem, that the representatives of the intermountain people are not representing the best interests of their own people by insisting upon taking away this flexible feature from the Interstate Commerce Commission. This, to me, is the determining factor of the whole situation.

I shall vote against any effort to break down the Interstate Commerce Commission. I certainly shall not give any sort of support to taking away from the Interstate Commerce Commission the power to deal with this technical question, and breaking up the rate structure about which Senators know so

little, and doing it ourselves here in this political whirlpool, rather than leaving the matter with a commission of experts whose whole life ought to qualify them for doing the just thing.

Mr. WALSH. Mr. President——

Mr. FESS. I yield to the Senator from Montana.

Mr. WALSH. I desire to inquire of the Senator if any representative from the intermountain country appeared before the committee in opposition to this measure?

Mr. FESS. Several, as I remember.

Mr. WALSH. Will the Senator tell us who they were?

Mr. McLEAN. The Colorado Fuel & Iron Co.

Mr. SMOOT. That is owned in the East.

Mr. WALSH. The Colorado Fuel & Iron Co.?

Mr. McLEAN. Yes.

Mr. WALSH. Why, that is a subsidiary of the Steel Trust.

Mr. McLEAN. Does it make any difference where they are owned?

Mr. WALSH. I should think so.

Mr. McLEAN. It may be that they are owned by the United States Steel Corporation. If so, this is the first time I have ever heard of it; but I think their interests are similar to those of the State of Idaho and of the State of Montana. They are certainly pretty far West, and they are very anxious to have this bill defeated.

Mr. WALSH. I never heard anybody from the intermountain country take that position, and we take credit out there for knowing what our own interest is.

Mr. FESS. I recall some one from Idaho—I think it was Mr. Sweeley—that appeared before the committee.

Mr. GOODING. Not before this committee; he appeared before the House committee a year ago.

Mr. President, I want to say to the Senator from Ohio that I am glad he has made clear the facts in regard to this great empty-car movement during this one month, because I think I have said to the Senator on different occasions that the records of the Interstate Commerce Commission show that the actual movement of empty cars westbound in the intermountain country is lighter than it is in any other part of the United States, considerably less; and it is an extravagant statement for the Senator to use this great empty-car movement in one month, because it would not serve the transcontinental railroads to any great extent if it were all in one month, anyhow. That empty-car movement, I anticipate, was composed of refrigerator cars westbound, going into the interior and never reaching the coast, and yet the Senator stands up here and says that 75 per cent in one month moved to the coast. I am sure the Senator is wrong in his statement.

Mr. FESS. The Senator does not mean to imply that there are no empty cars going west?

Mr. GOODING. Oh, no; I want to say that there is about 30 per cent, from 24 to 34 per cent, of empty-car movement on all railroads in the United States all the time; and there is less in the West than any other point, over the transcontinental railroads.

Mr. FESS. And the Senator admits that if the cars could load on the Pacific coast there would be less empty cars.

Mr. GOODING. So few that it would not amount to anything at all. If they had all the freight that they are asking for westbound, it would mean a revenue of only about $15,000,000 for five or six transcontinental railroads. Why, they would not be able to find it in their revenues.

This is true, too: While there has been an increase of only 35 per cent in transportation on the railroads of the United States as a whole since 1916, there has been an increase of 100 per cent on the transcontinental railroads; and then the Senator stands here and says that the Panama Canal is destroying or may destroy the transcontinental railroads, and he wants them held so that in case of war they will be intact, and the rails will not rust, with all the dividends that I showed that they were paying—higher dividends than any other railroads in the United States.

Mr. FESS. Mr. President, who has the floor?

Mr. GOODING. The Senator yielded, and I will yield to him.

Mr. FESS. I wish the Senator would yield now.

Mr. GOODING. I will yield.

Mr. FESS. Mr. President, I have the greatest admiration for the unlimited enthusiasm, that becomes even more than audible, of the author of this measure. His untiring interest and industry has been such that he has worked day and night publicly here in the Chamber, and in the committee room, and sitting down in his genial way talking to individual Members, which was the proper thing for him to do. It was only his fine personality that gave him such a remarkable vote last session over my protest; but I assure him that he will have no such vote this time. This measure certainly can not pass this body this year. Mr. President, I will not detain the Senate longer to-day. As the debate progresses I will have something more to say on the issue.

THE PROHIBITION LAW

Mr. McKELLAR. Mr. President, for more than 50 years prior to the actual coming of the national prohibition law, the sober-minded, God-fearing, Christian people of this Nation waged an unremitting fight to make this Nation a sober people. It was first a community fight, then became a county fight, then a State fight, and lastly a national fight.

Prior to 1914 only nine States had abolished the liquor traffic. Between 1914 and the time the prohibition amendment went into effect 24 States adopted prohibition. In 1918 the war-time prohibition act was enacted and it became effective June 30, 1919. The eighteenth amendment had been submitted to the States by the Sixty-fifth Congress on December 18, 1917. Between January 8, 1918, and February 25, 1919, the legislatures of 45 States had ratified it. The forty-sixth State, New Jersey, ratified it on March 9, 1922. In nearly all of these States the vote was decisive, and the majority overwhelming. Only Connecticut and Rhode Island failed to ratify it. It is a little curious, it may be remarked here, that the forty-sixth State, and the last State to ratify it, waited until March 9, 1922, and constituting the last expression of the people of that State, on that question, was the State of New Jersey, whose two Senators are now so violently opposed to the amendment and to the law enforcing it.

The Volstead Act, officially known as the national prohibition act, was passed in October, 1919, and President Wilson vetoed it, and a few days later it was passed over his veto. This law took effect at the same time the amendment took effect, January 17, 1920, so that for a little more than six years we have been operating under the national prohibition act, known as the Volstead Act. It will be remembered that the Willis-Campbell Act, strengthening the provisions of the Volstead Act, became the law on November 23, 1921.

MOVEMENT TO REPEAL

Mr. President, ever since the national prohibition act took effect there has been a great deal of discussion in the public prints and by the few advocates of liquor, on the floor of the House and Senate, about the repeal of the eighteenth amendment and the national prohibition act. The causes of this discussion are easily seen. In the first place, the temperance people, composed very largely of the church people of the Nation, both men and women, after the passage of these measures, felt that the temperance situation was secure; that it had been a hard battle, and they had won, and that they had won in a lasting way; that there was no danger of a possible repeal; and so since that time they have contented themselves with resting upon their oars and not saying much.

On the other hand, very naturally, those who had lost in the prohibition fight have been and are full of criticisms of the constitutional enactment and the law, and they have been quick to catch at any straws which would indicate a change of sentiment upon the part of the people. One day we find them engaging in a frantic appeal for light wines and beer; another day they show great concern for other sections of the Constitution. Then we have homilies on law enforcement as to all laws except the prohibition laws, which they seem to think it is all right to violate. Then we have discussions about the possibility of repealing the liquor laws, and then we have a great deal of loose talk about there being more drinking than ever before; that the prohibition laws are failures; that the people are dissatisfied with them; that they were passed not by the good Christian temperance people of the land, but by the bootleggers, in order that they might ply their trade; that the expense of enforcing the prohibition laws is ruining the Nation. They discuss the tyrannies and crimes of the prohibition-enforcement officers; they inveigh against the iniquities of the Anti-Saloon League; they look with horror upon the efforts of the Women's Christian Temperence Union, and many other such flimsy and unstable arguments, the most of which are without foundation. Indeed, Mr. President, if I did not have such great respect for the distinguished gentlemen on the floors of the two Houses who thus inveigh against the prohibition laws I would say that there was little but twaddle in their arguments. I think the great body of American people so consider them.

Again, prohibition affected the appetites of so many people that those who have contracted the habit of strong drink have made every effort to secure supplies from any available source. It must be borne in mind that any law that deprives any considerable body of people from gratifying their appetites will be decried against by those thus deprived. It is so in the narcotic law and it is so in reference to every other law of a

similar nature. It is perfectly natural that those who have discussed the question most have been those rather small elements of our social fabric.

Again, there is also some reaction against any law after it has been put into effect, however righteous that law may be; and this is especially so in the case of a law affecting the personal habits of so many people.

These things account largely for what we see in our newspapers and hear on our rostrums about the repeal or modification of the prohibition law.

NO REAL CHANGE OF OPINION

More than three and a half years ago the Manufacturers' Record of Baltimore published letters from several hundreds of the foremost business men, manufacturers, bankers, farmers, educators, and professional men in the country, giving their views about the moral and economic value of prohibition. It appears that 98½ per cent of the reports showed they were in favor of some sort of prohibition, while 85½ per cent were for strict prohibition. Only 7 per cent wanted wine and beer, while 2.75 per cent were undecided and 1½ per cent were opposed to prohibition. Last spring a correspondent of the Manufacturers' Record indicated that there had been a change of opinion and suggested that a survey be again made by the Manufacturers' Record to ascertain whether or not these men had, as a matter of fact, changed their views after several years under the prohibition law. In the Manufacturers' Record issued July 30, 1925, the reports of these gentlemen are inserted, and they show that all held to their former opinion. Manufacturers said the economic advantages of prohibition were tremendous. Leading doctors throughout the country said the death rate had been lowered and the sickness rate had been lowered; that savings accounts had been increased. Others claimed it has been a boon to women and children and a blessing to the entire country. One head of many large factory plants said that prohibition meant sober employees, better workmen, better husbands, better fathers, and better citizens, and I believe that all these things are true. In our hearts we all know they are true.

EVIL EFFECTS OF ALCOHOL

I need not dwell on the evil effects of alcohol as a beverage. Knowledge of its blighting effect on the human system—on the mind, body, and morals—is now known of all intelligent men and women.

It first excites and stimulates the mind and whets the appetite, and soon a permanent appetite is formed for alcohol in ever-increasing quantities. Later it stupefies and deadens the mind and beclouds the intellect. Its inroads are not as rapid as in the case of the use of habit-forming drugs, but in the end its harmful effect is just as certain. No one can long use it in excess without beclouding, benumbing, and completely ruining his or her intellect.

Its effect on the body is just as disastrous. It engenders disease in nearly all the organs of the body. It attacks the heart, causes the hardening of the arteries, taints the blood, attacks and in the end destroys the kidneys, injures the liver, burns out the stomach and intestines, destroys the efficiency and color of the skin, affects the bone, and finally weakens and breaks down and destroys the whole human system. And while alcohol is having this effect on the mind and body it in a similar disastrous degree operates on the moral system. It makes of one a moral coward. It leads him to falsify, to steal, to be dishonest, and oftentimes to the commission of all kinds of crimes.

Some of the brightest minds I have even known in professional, business, and even in public life, have been injured or even destroyed by its excessive use. Some of the most naturally honest men in the world have fallen by the wayside by reason of its insidious effect. Countless millions have passed on before their time into endless eternity because of this blighting and awful habit. I sometimes wonder how any grown man or woman can defend its use. Nearly all of our leading modern physicians, instead of prescribing it, now decry it, and many of them, like Dr. Harvey W. Wiley, Dr. Haven Emerson, Dr. Howard A. Kelly, Dr. John Harvey Kellogg, and many others, have become the most ardent advocates of prohibition.

HOW PROHIBITION AFFECTS VARIOUS CLASSES

Mr. President, I think it will be interesting to consider for a moment how the prohibition laws affect various classes of our people. The colored people, composing in our part of the country a very large segment of our population, are, in my judgment, tremendously benefited by this law. Their improvement since prohibition has been most marked. They are buying homes and farms. They are sending their children to school. They are better clothed and better fed. They are better men and women and are making better citizens. Prohibition has probably been a greater boon to them than to any other class.

Again, those white people who labor on farm or in factory, the clerks in our stores, the small merchants, all classes of people who work with their hands, men and women, have been greatly benefited. The farmers have been greatly benefited. All those employing labor have been greatly benefited. All these classes of people have been greatly benefited by the closing of the saloon and by the consequent rise in the price of illegal liquor. These liquors are so high that people of ordinary means can not afford to buy them, and thus the temptation has been greatly removed.

But, Mr. President, there is a class of our citizens that apparently prohibition is injuring. I say "apparently" because this injury does not come from the prohibition law itself, but it comes from a very determined and willful effort on the part of the people of this class to violate the law. They just seem determined to derive no benefit from prohibition. This class or element of our population are generally accorded to be the better class of people. Some call them the "moneyed aristocracy." I would not call them that. But it is certainly the wealthier class of our people. It is composed of those men and women who have the money to buy liquors at high prices. Men who have inherited wealth or have made large wealth and now have much leisure—men with leisure enough to frequent city clubs, social clubs, country clubs, golf clubs. Women whose lives are largely given over to entertaining and being entertained, many of whom have no real business in life except perhaps to succeed socially. Frequently we speak of these people as the better classes of our people, but they constitute those who are more than any other class apparently openly and proudly violating the prohibition law.

Mr. President, frequently the result of a law can not be forecast. Before the national prohibition law came, one would have supposed that this element of our population of which I am now speaking would have been foremost in upholding the law. Composed of men and women, largely of education, of good training, of property and substance, one would have thought that they would not be willing to take the risk of tearing down any law, but would be the first class to uphold and defend all laws; and yet we find this class, more than any other class, is violating the law and holding in contempt and even derision, for the most part, the Constitution and laws of our country.

Not only do we find men of this class violating the law but women also. They give parties. They invite friends, serve cocktails or highballs, or put a little flask of liquor by each plate, covered under a pretty paper. They buy the liquor from bootleggers. They know these men are violating the law when they purchase. They join in this violation. Mr. President, it is an awful thing to contemplate that these citizens constituting a very small proportion of the people of America, but at the same time a very influential and important part of the people of America, would thus be willing to openly and flagrantly violate the law.

Mr. BRUCE. Mr. President——

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Does the Senator from Tennessee yield to the Senator from Maryland?

Mr. McKELLAR. I yield.

Mr. BRUCE. I would like to ask the Senator from Tennessee whether he thinks that these thousands and thousands of arrests for drunkenness throughout the United States are referable to that particular limited social class of which he speaks?

Mr. McKELLAR. Very few of them belong to it. The thousands who are arrested are from the poor people, who in some way get hold of liquor. But, as the Senator knows, and as I know, and as every other Senator knows, the class of which I am now speaking is the class violating the liquor laws more than any other class, because, in the first instance, they have the money to buy, and in the next place the influence to keep out of the clutches of the law. While we all probably are more familiar with that class of people than any other, we know that what I am stating about that is absolutely true, and there is not a man or woman within the sound of my voice who does not know that in the so-called better elements of our social fabric the people are violating the law more than they are in any other class.

Mr. BRUCE. It seems to me, if the Senator will permit me to say so, that he is simply trying to do what is a very common thing in public life, to stir up a spirit of social prejudice and disaffection.

Mr. McKELLAR. Quite the contrary. If the Senator will let me proceed for a moment, I shall urge with all the force of which I am capable this splendid class of our citizens, who I believe are doing themselves such great harm, with all the sincerity of purpose of which I am capable, to cease

violating the law. I do not like to see these people violate the law any more than to see any other class of our people violate the law, and not as much, as a matter of fact.

Mr. BRUCE. The Senator admits, anyhow, that this vast number of arrests for drunkenness does not emanate from that class?

Mr. McKELLAR. I will get to the matter of drunkenness in a little while; but I will say that a very small portion of those who are actually arrested belong to the class of people about whom I am now speaking.

Mr. BRUCE. Is it or not the observation of the Senator from Tennessee that that class seems to be able to drink without any particular amount of excess?

Mr. McKELLAR. So far as I can recall, my memory running back over the last two or three years, the only drunken people I have seen belong to the class to which I am now referring.

Mr. BRUCE. The Senator's observation is very different from mine. I have had a considerable scope of social experience, and I can truly say that in the last five years I have not seen a human being within the circle of my personal friends and acquaintances who was drunk.

Mr. McKELLAR. Then I want to congratulate the Senator on that admission. It shows that the Senator, in the class of people concerning whom we are now talking, has not seen one person under the influence of liquor in the last five years. I believe that was the statement. That is a wonderful record for prohibition.

Mr. BRUCE. I have never seen one man or woman in the city of Washington under the influence of liquor, in the circle of my social associations, and I have seen 5,000 drink.

Mr. BROUSSARD. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. BRUCE. Of course, when I said 5,000, I was using exaggerated language.

Mr. McKELLAR. I was quite sure of that.

Mr. BRUCE. I have seen dozens and dozens drink, and I have yet to see one single drunken man or woman within the circle of my social connections in the city of Washington.

Mr. McKELLAR. Since prohibition?

Mr. BRUCE. Yes; since prohibition.

Mr. McKELLAR. I am glad to have that admission from the Senator. It means a great deal in this debate.

I now yield to my good friend the Senator from Louisiana.

Mr. BROUSSARD. At the time of the adoption of the eighteenth amendment and the enactment of the Volstead Act I claimed that it was class legislation. After hearing the latter part of the speech of the Senator from Tennessee, I am confirmed in that opinion, and agree with the Senator's argument that it is class legislation.

Mr. McKELLAR. The legislation is not class legislation. The enforcement of it is to some extent open to that criticism.

Mr. BROUSSARD. The enforcement is class enforcement. It is enforced among certain classes.

Mr. McKELLAR. That is lamentably true.

Mr. BROUSSARD. Despite the efforts made by the prohibition department. Do not the men charged with the execution of the law know that every man who before prohibition drank anything and has money now is still drinking? Why do they not arrest them?

Mr. McKELLAR. I do not know. I can not go into that; that is not my province. But I will say this to the Senator, that I believe the officers of the law are trying their best to do their duty.

Mr. BROUSSARD. And are arresting the poor devils.

Mr. McKELLAR. Mostly those; yes.

Mr. BROUSSARD. Will the Senator answer another question?

Mr. McKELLAR. I shall be glad to do so if I can.

Mr. BROUSSARD. The Senator has described the effect of alcohol on the human system. Can the Senator from Tennessee name a single individual in history who has a world-wide reputation who was a total abstainer?

Mr. McKELLAR. I do not think I can just at this moment.

Mr. BRUCE. If the Senator from Louisiana is really seeking such an example, he can find one in the Senator from Tennessee himself. [Laughter.]

Mr. McKELLAR. We will not discuss that.

Mr. President, continuing about this particular class of people for a moment, their own violation of the law is not the worst feature of this situation. The worst feature is that they are teaching their own sons and daughters to violate and hold in contempt this law and all other laws of our land. How sad it is to contemplate that when their sons and daughters become drunkards they themselves are showing them the way. When their sons and daughters become law violators of every kind, they themselves are showing them the way by precept and by example.

Mr. President, if this small but influential class of our people could be prevailed upon to obey the law, there would be no further talk, in my opinion, about law enforcement. Many of these people are church people. The most of them are our so-called best citizens, and perhaps about all other things except liquor-law violations are justly entitled to be called good citizens. They know better than to violate the law. They have had better training than most people. They must love their children. They must respect their Government. They must desire that our Constitution be upheld. They must desire that the rights of life, liberty, and property be upheld, and yet how can they expect these protections and safeguards if the law shall be thrown around them when they are openly, notoriously, and even proudly boasting of their own violation of one of the provisions of the Constitution. Under the laws of our land these classes of our people are constantly increasing their wealth and power. They are more interested in safe conditions, more interested in law enforcement, than any other people in our land, and yet to-day they are doing more than all others besides to undermine our social fabric and to break down orderly government.

Mr. President, I want to appeal to these classes of our people to obey the law. I want to appeal to them, not only in their own interests, but in the interests of their sons and daughters who are growing up around them. I want to appeal to them to let their better natures assert themselves to the end that orderly government may prevail in our land.

Mr. President, not long ago I was invited to a large dinner party given by some friends of mine. Liquor was served. I sat on the right of my good hostess. She did not drink herself. She was a member of the church. Her husband has been successful. He has recently become rich. She had sons and daughters. They all wanted to get along in the world and she confided in me that she thought it was wrong to serve liquor, but that unless she did she was not invited to the homes of the best people, and that unless she served wines at her house the best people would not come, that her children could not go with the children and the best people unless liquors were served. Ah, Mr. President, what a travesty, what a misguided view this is of real life, that in order to rise in the social scale one must become a law violator and a Constitution derider. What will become of a class of people, even though it may be called a moneyed aristocracy, which thus flagrantly teaches a violation of the law and inculcates into their children a disrespect for the established Constitution and laws of the land? I want to appeal to this element of our people to put themselves right and to uphold the Constitution and laws of our blessed country.

CHANCES OF REPEAL

Looking at the matter in a perfectly candid way, it would seem that the chances for repeal are practically negligible and the chances for modification are not a great deal better. The eighteenth amendment is as follows:

SECTION 1. After one year from the ratification of this article, the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

In order to change this constitutional provision it will be necessary for two-thirds of both Houses to pass a law nullifying the amendment. On an application of the legislatures of two-thirds of the several States a convention shall be called for nullifying the amendment, and even when this is done, it requires a ratification of such annulment by the legislatures of three-fourths of the several States or by convention of three-fourths of the several States. The Constitution has been in effect for 137 years. No amendment, once adopted, has ever been repealed, so that it would seem that at this time, with the overwhelming sentiment against drunkenness and the well-known injurious effect of the habitual use of intoxicating liquors, that there is hardly a chance in a thousand that this amendment will ever be repealed.

Mr. BROUSSARD. Mr. President——

Mr. McKELLAR. I will yield to the Senator in just a moment.

Even supposing a constitutional amendment qualifying the prohibition amendment was passed. It would take the legislatures or conventions in 36 States to ratify such an amendment. Now, 33 States already have state-wide prohibition, and 13 States are all that are necessary to veto the legislation. Is it possible that the wets can get 21 out of the 33 of these prohibition States? Our liquor friends are evidently not advised as to the prohibition sentiment in those States, if they think they can. So far as I can see, the sentiment in this country is be-

coming more favorable to prohibition, rather than to a return of liquor.

Mr. BROUSSARD. Will the Senator yield to me now?

Mr. McKELLAR. I gladly yield to my friend now.

Mr. BROUSSARD. I am glad the Senator continued before yielding, because that which he stated after my attempted interruption demonstrates exactly what I wanted to say. The Senator and I live in the South. The fourteenth and fifteenth amendments were not repealed.

Mr. McKELLAR. They are not repealed, and they are in very full force and effect in my own State of Tennessee.

Mr. BROUSSARD. They are not in my State.

Mr. McKELLAR. They are in Tennessee.

Mr. BROUSSARD. I will go further. I will say to the Senator that the enforcement in this country has abrogated almost all of the first 10 amendments of the Constitution. They have not been repealed.

Mr. McKELLAR. I do not agree with the Senator in that statement.

Mr. BROUSSARD. What has become of the guaranties to the citizens of the United States under the first 10 amendments of the Constitution, which were a part of the original Constitution? They are being disregarded to-day by the prohibitionist, who is merely looking to the eighteenth amendment.

Mr. McKELLAR. The Senator has asked a question and I want to answer it. I believe that the guaranties of the first 12 amendments of the Constitution are not only in just as full force and effect as ever, but they are more so. The only menace to those guaranties of personal liberty is the attempted violation of the eighteenth amendment and the laws enacted under it.

Mr. BROUSSARD. I disagree with the Senator about that entirely. Just to demonstrate, let me remind the Senator of what occurred on the floor of the Senate since I have been here. When the so-called beer bill was up for consideration, the Senator from Missouri [Mr. REED] offered the fourth and fifth amendments to the Constitution as an amendment to that bill without the change of a single word. When the amendment was offered, former Senator Sterling, of South Dakota, and the Senator from Ohio [Mr. WILLIS] objected, not recognizing them to be the fourth and fifth amendments to the United States Constitution.

The only exception that was made to the fourth and fifth amendments in the form of an amendment to be attached to the beer bill was the prohibition against search of the person, whereupon former Senator Stanley, of Kentucky, went to the then Senator Sterling and agreed to take out the inhibition against search of person. The amendment was then accepted and unanimously agreed to in this body. It went to conference and the conferees refused to accept it, and they brought back the provision that we have to-day, which permits search and seizure of papers and property and everything connected with it, which were supposed to be safeguarded under the fourth and fifth amendments to the Constitution. That has been made a part of the law.

Of course, the worst transgression of the fourth and fifth amendments is by the prohibition officers who are attempting to carry out the compromise in the way of a safeguard to the individual as contradistinguished from the fourth and fifth amendments to the Constitution of the United States.

Mr. McKELLAR. In answer to that statement I will say that I was present when the amendments were offered as described by the Senator from Louisiana. I rather thought they were offered in a facetious way. We all agree that the Ten Commandments are fairly worthy of being upheld and considered.

Mr. BROUSSARD. But we did not legislate those.

Mr. McKELLAR. And yet I have no doubt if somebody had offered the Ten Commandments in the form of an amendment to the bill then pending, the amendment would have been voted down, not because Senators were opposed to the Ten Commandments but because they had no proper place in the bill.

Likewise those amendments to the Constitution of which the Senator speaks were voted down. Why? Not because those who voted them down did not believe in them. They believed in them just as certainly as any others. They voted them down because they had no proper place in such legislation. The Supreme Court of the United States has upheld the law of which the Senator complains. It has been criticized just as the Senator has criticized it. Those criticisms have been brought to the attention of the court in a due and proper way. The cases have been carried to the Supreme Court of the United States, and every contention made by the Senator and other Senators who believe with him and who voted against the amendments at the time has been overruled by the highest courts in the land. The highest courts in the land have said that the law is in perfect keeping not only with the eighteenth amendment but with the first amendment, the second amendment, the third amendment, the fourth amendment, and every other part of the Constitution. How can it be criticized by claiming violation of the other provisions of the Constitution, when our Supreme Court has held that there was no violation? I know that the Senator, like myself and all other good citizens, must concede that when the Supreme Court renders its opinion upon the Constitution of the United States that opinion is final and binding until the National Legislature changes it.

Mr. BROUSSARD. Mr. President, will the Senator permit me to interrupt him, just to keep the record straight?

Mr. McKELLAR. Certainly.

Mr. BROUSSARD. The Senator did not vote against that amendment when it was before the Senate.

Mr. McKELLAR. I do not recall.

Mr. BROUSSARD. No one in the Senate voted against it.

Mr. McKELLAR. I should have done so if I did not.

Mr. BROUSSARD. The Senator said it was voted down. There was not a vote cast against it until the conferees emasculated the fourth and fifth amendments to the Constitution which had been offered as an amendment to the bill.

Mr. McKELLAR. Finally we voted against it, because they were not in the measure when it was passed. If we let it go by as the Senator has said, I think we made a mistake in letting it go by even that far.

SALOONS GONE FOREVER

As evidence of the almost unanimous sentiment against the indiscriminate use of intoxicating liquors by the people, there is practically no one now who would argue in favor of the reopening of the liquor saloon.

I digress here long enough to ask the question, is there a Senator on this floor who would vote to restore the saloon to the people? If so, I should like to hear from him. [A pause.] Well, that is one victory, anyway; that whatever views Senators may have about liquor the eighteenth amendment has abolished the saloon in this country and we all acquiesce in its abolition.

Yet, I remember the day when there were few men who would say that they were in favor of the abolition of the saloon.

Mr. President, I remember the day when the saloons were the seats of political power in this country and almost controlled it, and yet the abolition of the saloon is what the eighteenth amendment and the Volstead law have done in the interest of the people. They have abolished the saloon. Even the most violent opponents of the Volstead law and of the eighteenth amendment almost without exception are opposed to a reestablishment of the saloon. I do not believe any advocate of liquor in this body, however ardent, would advocate a return to the open saloon, and that has been shown by the question that I asked and the lack of an answer.

Mr. BROUSSARD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. McKELLAR. I yield.

Mr. BROUSSARD. Does the Senator from Tennessee contend that there are no saloons in the United States at this time?

Mr. McKELLAR. There may be saloons, but I do not know of any.

Mr. President, I remember when the liquor saloons were powerful enough to control the politics of practically all our cities and of the most of our States. The marvelous change in sentiment toward the saloon shows the underlying sentiment against their reestablishment and in favor of a sober Nation and a sober people.

But our liquor friends say they are not going to return to the open saloon, that they will have the breweries dispense beer by wholesale and deliver it at the consumers' houses and that wines and liquors may be dispensed by the Government, if necessary, or by the drug stores or other such agencies. Mr. President, I am no more in favor of a drug-store saloon than an old-fashioned saloon, and the American people are not going to permit drug stores to be turned into saloons. They are not going to permit the return of the saloon in any guise, form, shape, or under any name, alias, or subterfuge. When the saloons were here, they debauched the men, ruined the lives of women, and were a constant menace and source of destruction to the youth of the land. They debauched the politics of the Nation, they constituted one of the worst enemies of industry, they prevented saving and were a constant source of destruction to health, happiness, morality, decency, honesty, clean politics, good government, and of even life itself. The American people know what they were. They

know their hurt and injury, and they will never let them come back under any form or under any pretext.

In the great fight for their destruction the wine and beer interests lined up solidly with the liquor interests, and they went down with the liquor interests, and, in my judgment, they went down for all time. If you modify the law to open legally a beer-selling place, it will not be two weeks before the owner of the place will be selling liquor illegally. If you permit wine to be sold in like manner, it will only be a short time before liquor will be sold there illegally. In other words, when it comes to intoxicating drinks, when you modify the law, it is to destroy the law. If you allow light wines and beers to be sold, instantly liquor will be sold illegally.

THE CASE OF MEMPHIS

Mr. President, the beneficial workings of the prohibition laws can not be better illustrated, perhaps, than in the case of my own home city of Memphis.

After one of the greatest political fights that ever took place in Tennessee, a fight in which tragedy in high place was a part, Tennessee in February, 1909, passed over the veto of the then governor a state-wide prohibition law. Perhaps, unfortunately, this law had never been submitted to a state-wide vote, but the sentiment in favor of doing away with the saloon and of establishing state-wide prohibition was overwhelming, except in the large cities. In Memphis for the first several years after the passage of the law the statute was openly and flagrantly violated. In fact, no attention whatsoever was paid to it. Indeed, at one time during this period Memphis voted wet and in favor of the saloons by something like 7,500 majority; and then came a revulsion in sentiment and the state-wide laws were partially enforced. When the war-time prohibition act came they were better enforced, and when nation-wide prohibition came they were even better enforced; and, in my judgment, while their violation is still very considerable, they are being better and better enforced every year.

Mr. BRUCE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Maryland?

Mr. McKELLAR. I yield.

Mr. BRUCE. Is the Senator from Tennessee aware of the fact that complaint has been more than once made in recent years that criminal conditions in the city of Memphis are so bad that it is difficult to obtain from the public authorities in that city statistics in relation to them.

Mr. McKELLAR. No, sir; I am not aware of that fact.

Mr. BRUCE. But it is a fact.

Mr. McKELLAR. I have lived in Memphis for 32 or 33 years, and I think conditions there are more favorable to law enforcement of all kinds than they ever were before in the history of the city.

I want to say another thing. I have here a statement from the chief of police of the city of Memphis which affords absolute proof of what I am saying, if it were necessary to prove it. I want to say that there is no more doubt of the splendid effect the prohibition laws have had in Memphis than there is about my standing on this floor and speaking on this subject to-day.

Mr. BRUCE. I am not asking the Senator from Tennessee for an asseveration. I am asking him for facts.

Mr. McKELLAR. And I will give them to the Senator if he will permit me.

Mr. BRUCE. The statement has been made to me that it is practically impossible to obtain from the public authorities of Memphis a statement in relation to the extent of criminal conditions in that city.

Mr. McKELLAR. I will give the Senator any information that he may want on that subject at any time, or I will see that it is furnished to him.

Mr. BRUCE. I will ask the Senator from Tennessee, has he before him any table going to show the extent to which arrests for drunkenness have increased in the city of Memphis since the year 1920?

Mr. McKELLAR. I have such a statement, and I will submit it as an exhibit to my remarks here this afternoon. I have those statistics right here, and I will give them to the Senator from Maryland.

Mr. BRUCE. I shall be glad to see them. All I have to say is that if they do not show a steady, progressive increase in the number of arrests for drunkenness, the city of Memphis enjoys the exceptional distinction of being the only large city in the Union in which such a steady, progressive increase has not taken place.

I do not want to be misunderstood. I have no disposition to cast any reflection upon the worthy people of the city of Memphis or upon any other city in the United States.

Mr. McKELLAR. I do not think there are any worthier people in any city than there are in Memphis.

Mr. BRUCE. We all know that allowance should be made for the peculiar composition of its population, which naturally tends much more readily than the population in some of the more northern cities to swell criminal statistics; but I will ask the Senator another question.

Mr. McKELLAR. Let me answer the Senator's last question first. It will take me just a moment. I will give the facts from information furnished by the chief of police of the city of Memphis. I wrote him under date of February 12, 1926, and asked him several questions. I give the Senate his replies just as they have come to me to show how faulty is the information of the Senator from Maryland about the city of Memphis.

Mr. BRUCE. I have asked the question for information.

Mr. McKELLAR. I will read the letter and the answers of the chief of police:

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
Washington, D. C., February 12, 1926.

Hon. J. B. BURNEY,
Chief of Police, Memphis, Tenn.

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement, in so far as they affect your city.

How many arrests for drunkenness were there in Memphis in 1912 and how many for 1924?

Arrests, 1912	1,528
Arrests, 1924	1,530

In 1912 was there a local law authorizing the police to arrest for drunkenness alone? There was; but about 60 per cent were held to sober up and no record.

Was there such a law in 1924?

In your judgment, were more liquors drunk in Memphis in 1912 than in 1924?—Yes.

If drinking has increased, state the amount of increase, in your judgment.

He does not answer that question. [Laughter.]

Do not laugh quite so fast, because the next question answers that and explains it in a way to the great honor and credit of my home city. The next question is:

If drinking has decreased, state the amount of decrease, in your judgment.

And his answer is:

About 75 per cent.

Mr. BRUCE. I am not talking about generalities.

Mr. McKELLAR. Oh, no; the Senator did not expect these figures. The Senator laughed when I said the question was not answered, but when the facts are shown he tells me he does not want them.

Mr. BRUCE. I said I was not asking for generalities.

Mr. McKELLAR. I know the Senator is not.

Mr. BRUCE. The statement as to a 75 per cent decrease expresses nothing probably but the hasty judgment of a police authority who wishes to make a goodly showing for his city. The essential fact is, however, that the number of arrests for drunkenness, as I understand the paper which the Senator has just read, in 1912, before the adoption of the eighteenth amendment, and in 1924, after the adoption of it, is practically the same.

Mr. McKELLAR. Just a while ago the Senator said the number had enormously increased, but here is a man who knows his business as few other men do know it in this country——

Mr. BRUCE. If the Senator——

Mr. McKELLAR. Just one moment—and this man states, in answer to the question, that 60 per cent of those who were found drunk in the old days were allowed to sober up or they were sent home in carriages, where they were able to be sent home, and that few arrests at that time were made.

Mr. BRUCE. The Senator will do me the justice to say that I said that there had been a steady, progressive increase of drunkenness since 1920; that is to say, ever since the adoption of the Volstead Act. It would be a poor showing, indeed, if after all the stupendous machinery of Federal repression had been set into motion the number of arrests in 1924 were as great as it was in 1912.

Mr. McKELLAR. Let me finish reading from this letter. I think, after the assault the Senator has made upon the morality of my home city, and his reference to the criminality there prevailing, it is nothing but fair that the facts may be adduced, and I wish to read the remainder of the letter.

Mr. BROUSSARD. Mr. President, may I ask the Senator a question?

Mr. McKELLAR. Just a moment. I want to give the facts.

The PRESIDING OFFICER. The Senator from Tennessee declines to yield.

Mr. McKELLAR. I will yield to the Senator in a moment. He does not know the facts, and the man who wrote to me does know them.

If drinking has decreased, state the amount of decrease, in your judgment.—About 75 per cent.

What was the number of men and women convicted of drunkenness in 1912 and what was the number in 1924?

Men arrested in 1912	1,270
Men arrested in 1924	1,432
Women arrested in 1912	258
Women arrested in 1924	98

In your judgment, were as many people seen drunk on the streets of Memphis in 1924 as in 1912?—No.

What was the total aggregate amount of fines imposed for drunkenness in Memphis in 1912 and what was the amount in 1924?

Fines, 1912	$10,368
Fines, 1924	12,025

In your judgment, was one-tenth as much liquor consumed in Memphis in 1924 as in 1912, when all the saloons were open and running all day and much of the night?

Were you able to preserve order in the city of Memphis better in 1924 than it was preserved in 1912, when all the saloons were open?—Yes.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

Then he adds this:

Population of Memphis in 1912	135,533
Population of Memphis in 1924	174,567

Population in the suburbs is probably ten times more in 1924 than 1912 on account of automobiles and good roads.

J. B. BURNEY,
Chief of Police, Memphis, Tenn.

Mr. BROUSSARD. Mr. President, now, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. BRUCE. Will the Senator from Louisiana allow me a moment?

Mr. BROUSSARD. Yes.

Mr. BRUCE. I am sorry to make the statement; I do not know whether it is correct or not; but I have seen the statement made more than once that the crime rate in the city of Memphis, Tenn., is higher than in any other city in the United States.

Mr. McKELLAR. Mr. President, Memphis happens to be right in the corner of the three States of Arkansas, Mississippi, and Tennessee, and there are as I remember 14 trunk roads running into Memphis——

Mr. BRUCE. Does the Senator mean to say that Memphis has been corrupted by bad neighbors? [Laughter.]

Mr. McKELLAR. Not at all; but when men are hurt in Mississippi, when they are injured in Arkansas, when they need hospitalization from anywhere on those railroads, they are brought into Memphis, and the deaths that take place from violence are included in the figures of Memphis. That is why the figures that the Senator saw occur there. I will say, however, that violations of law in the city of Memphis are not half so numerous, not half so flagrant, as they are in the good city of Baltimore, which is represented in part by the Senator from Maryland. I have been in both cities time and again; I am somewhat familiar with the conditions in both cities; and I say to the Senator that if he will do me the credit to pay me a visit and come down into the city of Memphis on a visit for a few days, he will find a city that is as good a law-and-order city as there is in this country.

Mr. BRUCE. Will the Senator from Tennessee assure me that I will come back whole if I do?

Mr. McKELLAR. I will; and I do not know whether the Senator could give me that assurance in case I came over to Baltimore or not.

Mr. BRUCE. I will ask the Senator just one more question and then I will desist.

Mr. McKELLAR. All right.

Mr. BRUCE. Does the Senator know what the arrests for drunkenness in the city of Knoxville, Tenn., were in the year 1922?

Mr. McKELLAR. Yes, sir. I did not know until I heard the Senator discuss the matter here, and I found that the Senator was so very greatly mistaken as to his facts that just a little later I am going to give the facts as taken from the law officers of the city of Knoxville.

Mr. BRUCE. There was a great deal of reluctance, apparently, on the part of the public authorities in Tennessee about giving facts of that kind, and I could get the facts as respects Knoxville for only two years. I got them, however, from the public authorities. For the year 1922 the arrests for drunkenness in the city of Knoxville were 2,753, and for the year 1924, 4,456.

Mr. McKELLAR. Yes; and I will give the Senator the facts in a moment. As the Senator knows, my State is very dry, and I think most of the people down there regard the Senator as a "wet" Senator, and they are probably a little chary about giving out information to him; but I will say to him that if he will prefer any request through me, I will guarantee that he will get a prompt reply to any letter that he may write.

Mr. BRUCE. They would know down there that the "wets" have too scrupulous a regard for accuracy and facts——

Mr. McKELLAR. Oh, no; I think the Senator has been very careless about his facts, and especially about Memphis and Knoxville.

Mr. BROUSSARD. Mr. President——

Mr. McKELLAR. I now yield to the Senator from Louisiana.

Mr. BROUSSARD. I wanted to ask the Senator a question while he was referring to the chief of police of Memphis, but I was unable to secure his permission to interrupt.

Mr. McKELLAR. I shall be glad to yield. I did not mean any disrespect to the Senator because I did not yield at that time.

Mr. BROUSSARD. I understand. When the Senator was dealing with the equal number of arrests in 1912 and 1924——

Mr. McKELLAR. But in 1912, 60 per cent of them were sent home in carriages, or otherwise cared for without any arrests, according to the report.

Mr. BROUSSARD. Will the Senator permit me to complete my question?

Mr. McKELLAR. Indeed I will.

Mr. BROUSSARD. I am glad the statement has been made. That is just what I was going to bring out, that those fellows were not arrested in 1912.

Mr. McKELLAR. No, sir; they were not. I want to say to the Senator, in answer to that question, that I happened to be in Memphis in 1912 a large part of the time, or at any rate along in those years; and I said here on the floor of the Senate the other day that I do not believe there is one-tenth as much drinking of intoxicating liquors in the city of Memphis to-day as there was at that time. I doubt very much whether there is one-twenty-fifth as much to-day as there was then.

Mr. BROUSSARD. But I should like to complete my question.

Mr. McKELLAR. I beg the Senator's pardon.

Mr. BROUSSARD. I should like to ask a question and follow it up.

Mr. McKELLAR. Very well.

Mr. BROUSSARD. I think the burden of the Senator's speech up to now has been to denounce the people who can afford to buy liquor.

Mr. McKELLAR. Oh, no; I am pleading with them to quit doing so.

Mr. BROUSSARD. Then I misunderstood the Senator.

Mr. McKELLAR. I am not abusing them at all. I think they could spend their money to infinitely better account than in violating the Constitution and laws of their land.

Mr. BROUSSARD. I thought the Senator promised to permit me to propound a question.

Mr. McKELLAR. I am answering the questions as the Senator goes along. The Senator is saying a good deal.

Mr. BROUSSARD. I have not gotten through the question.

Mr. McKELLAR. I will yield to the Senator long enough to ask it.

Mr. BROUSSARD. Let me finish the question. I said that the burden of the Senator's speech has been to charge that the people who can afford to buy liquor, the wealthy people, those who can afford to buy at the high prices to-day, are violating the law with perfect immunity, and that the law is not being enforced.

Mr. McKELLAR. Oh, no; I did not say that.

Mr. BROUSSARD. Wait a minute.

Mr. McKELLAR. The Senator does not want to put me in a false attitude. I did not say either one of those things.

Mr. BROUSSARD. If the Senator does not want me to ask him a question——

Mr. McKELLAR. But the Senator is asserting something that I did not say. I am perfectly willing to answer any question.

Mr. BROUSSARD. Why does not the Senator permit the question to be asked before he corrects it? If he will do that, he can correct it afterwards, and I will take my seat.

Mr. McKELLAR. All right.

Mr. BROUSSARD. I am trying to state what I understood the Senator's speech to be.

Mr. McKELLAR. I will inform the Senator that I did not say that at all.

Mr. BROUSSARD. I will frame the question all over again, because I should like to have a complete question and a complete answer, and I can not have a responsive answer if I am to be answered in sections.

Mr. McKELLAR. All right.

Mr. BROUSSARD. I will ask this question, and I will put it all in one, and I will ask the Senator not to interrupt me until I have asked it.

Mr. McKELLAR. All right; go right ahead. I hope the Senator will not make the question too long.

Mr. BROUSSARD. I understood the Senator's records furnished by the chief of police to state that in 1912 a number of people who were picked up for drunkenness were not listed, but were taken home or permitted to sober up; and then when he answered the question as to 1924 I called his attention to the entire burden of his speech up to now, where he admitted that only a certain class of people were being arrested. Suppose, now, that you added those who had been granted immunity under the law, how many more would you have had arrested in 1924?

Mr. McKELLAR. In the first place, I did not make any such statement as the Senator attributes to me. In the next place, I will say that if all of the people who are now allowed to go free under the law had been arrested, it would have increased the number considerably—not a great deal, because the class of people to which I have referred is not relatively a very large class.

Mr. President, it may not be amiss here for me to state a personal and political experience that I had in this Tennessee situation. I had been elected to the House of Representatives in 1911. In 1913, about the time that Memphis had voted so overwhelmingly wet, I was called on as a Member of the House to vote for or against the nation-wide prohibition amendment. Coming from a wet city I had been commonly accounted a wet. However, I studied the question just as I had to study every question before I voted on it, and I came to the conclusion that the liquor traffic was wrong and that I ought to vote against it, much to the surprise, I take it, of many of my constituents. Before thus voting I received letters by the thousands and petitions with thousands of names on them urging me to vote against the amendment, and saying that the overwhelming sentiment in Memphis was opposed to it; that it would mean the destruction of the property invested in the liquor business; that it would destroy the value of the real estate that was used for saloon purposes; that it would throw thousands out of employment; that it would destroy property values throughout the city; that it would destroy the prosperity and hamper the growth of Memphis; that it would not reduce liquor drinking; that in a few years cotton would be planted or grass would be growing in the streets.

Mr. President, none of these direful predictions came true. Men were allowed to dispose of their stocks of liquors. The saloon property, instead of losing in value, is worth from 100 to 500 per cent more than it was worth previously. All property values have increased from 100 to 500 per cent. This city has very nearly doubled itself in population in that time. Its growth and development and progress have been phenomenal; and, while liquor is still drunk there, I do not believe there is 1 gallon drunk there now where 10 gallons were drunk before they had prohibition.

Indeed, Mr. President, while I know that the liquor laws are violated there—more, perhaps, than in any other city in my State, because Memphis is on the Mississippi River and in the corner of three States, with the result that it is easier to smuggle liquor in than in most other places—while this is so, during the recess last summer I was in Memphis nearly four and one-half months, in which time I saw all classes of people and mingled with them all on the streets every day; and it was not until those four and one-half months had elapsed that I saw a single man or woman drunk from the effects of liquor. During my stay in Memphis, I saw two, whereas in the old days in Memphis it was nothing unusual to see in a single hour in an afternoon scores of persons under the influence of liquor, and many of them reeling drunk. There has been a vast improvement in Memphis, not only in the enforcement of the liquor laws but in the matter of liquor drinking, and I am constrained to believe that the day will come when that city will enforce the liquor laws as well as all other laws are enforced.

After making the statement that I did not believe there was one-tenth as much liquor drunk in Tennessee as before, when my statement was questioned by the Senator from Maryland, I took occasion to write the chief of police in the city of Memphis for his views upon this subject. Chief J. B. Burney was a member of the police force in 1912, when saloons were open. Now he is chief of police, and a splendid and efficient chief he is; and I have already read the report he has given. It will be noted that he places the decrease in the drinking of liquor at 75 per cent. I think the decrease has been even greater than that. Naturally, he is in touch with that class of our citizens who violate the law, and the present state of violations appear large to him.

OTHER CITIES IN TENNESSEE

In the other large cities of Tennessee the situation is much like it is in Memphis. I did not get an answer to my letter from the chief of police at Chattanooga, but I did from Nashville, Knoxville, and Jackson, and they will be printed at the end of my remarks.

Mr. President, the Senator from Maryland [Mr. BRUCE] some days ago referred to the situation in Knoxville, and he referred to it again just a moment ago, in proof of his claim that there is more drunkenness now than there was before prohibition.

Mr. BRUCE. Mr. President, just let me correct the Senator for the third time.

Mr. McKELLAR. Very well.

Mr. BRUCE. My comparisons have always been between the years subsequent to the enactment of the Volstead Act.

Mr. McKELLAR. I modify my statement so as to make it since the year 1920 down to date. The report I have from the chief of police at Knoxville would appear to verify that conclusion of the Senator from Maryland, but only a day or two ago I received from the police judge of Knoxville, Judge Robert P. Williams, a statement on this subject which wholly contradicts the report. Judge Williams says:

> Starting early in life as a newsboy, and afterwards serving as reporter to daily papers and reporting news from the Supreme Court on down, being police reporter for 20 years and municipal judge for 7, has thrown me in a position to study the situation from its closest angle. Some of the clergy are taking the stand that a large number of arrests for drunkenness are due to prohibition, and are asking that the Volstead Act be repealed. The press in some cities is supporting the move. In my own city some are comparing arrests made in years gone by with those of the present day. The comparison is not fair. There were fewer arrests before the Volstead Act, but the reason is that in those days men who drank whisky were not arrested until they were drunk and down. Those who sold whisky provided places for their customers who took too much. Often a cab was called and the intoxicated man sent home or to a hotel.

And I stop here long enough to say that it is the common knowledge of every one of us that that is correct.

Mr. BRUCE. Mr. President, just one more interruption.

The PRESIDING OFFICER. Does the Senator from Tennessee further yield to the Senator from Maryland?

Mr. McKELLAR. I yield.

Mr. BRUCE. Of course, that idea is advanced very often, but it is totally disproved by the experience of such a city as Baltimore. The commissioner of police in Baltimore—a most efficient officer—told me just a month or so ago that the instructions he gives to policemen in Baltimore with relation to the arrest of persons for drunkenness are exactly the same instructions as those that were given to them before the adoption of the eighteenth amendment and the enactment of the Volstead Act. Those instructions were that if a man was seen drunk on the street by a policeman, and he was simply under the weather, or less than half-seas-over, and could get home without any loss of life or limb or without any positively disorderly conduct, then he was not to be arrested. Those were the instructions delivered to our policemen before the enactment of the Volstead Act, and those are the instructions in force to-day.

Baltimore City, like every other city in the Union, including Memphis and Knoxville, has witnessed a steady and a progressive increase in the number of arrests for drunkenness since the enactment of the Volstead Act.

Of course, nobody who knows our police in Baltimore city, how freely they share the free spirit of our people, how little they are prejudiced in favor of prohibition, would doubt for a moment that while they do their duty, and do it faithfully, they are not any quicker or more inclined to arrest a drunken man than they were before the enactment of the Volstead Act.

Yet in the city of Baltimore, too, where public sentiment is overwhelmingly against the eighteenth amendment and the Volstead Act, we have the same pathetic, lamentable, tragic increase in the number of arrests for drunkenness from year to year.

Mr. McKELLAR. In reply to that, I just want to read a communication. I sent this very list of questions to the chief of police of Baltimore, and he answers:

I beg to acknowledge receipt of your letter of the 13th instant, and in response thereto I am noting in numerical order replies to the several queries made by you apropos of the prohibition laws and their enforcement in this city.

First, in the year 1912 there were arrested 5,206 and in 1924, 6,029.

My second question was whether there was a local law authorizing the police to arrest for drunkenness. To that he answered, "Yes."

My third question was, "In your judgment, was more liquor drunk in Baltimore in 1912 than in 1924?"

To that he answered, "Yes."

The fourth question was whether drinking had increased, and the amount of increase, in his judgment. He did not answer that.

The next question he did not answer.

In answer to the seventh question he said that the arrests of men and women in 1912 were 1,555; in 1924 they were 3,017.

Mr. BRUCE. Mr. President, the Senator has certainly gotten his figures lamentably mixed up. I have before me a table furnished me by the police commissioner of Baltimore city.

Mr. McKELLAR. I am just reading this letter.

Mr. BRUCE. If the Senator will allow me——

Mr. McKELLAR. Oh, no. I know the Senator wants to be fair about this.

Mr. BRUCE. Absolutely. I can afford to be, my cause is so strong.

Mr. McKELLAR. I am glad the Senator feels that way about it. The next answer was:

Little difference, if any, noted in the matter of preserving order in the year 1924 and the year 1912.

Then he goes on to say:

For your information, I respectfully call your attention to the fact that the Legislature of the State of Maryland has not passed an enforcement law for violating the Volstead Act.

Mr. BRUCE. And never will.

Mr. McKELLAR. Well, I do not know about that. I think it will. I differ with the Senator about his own State. I do not believe that any State in this land will long continue violating the laws and the Constitution of the country. He continues:

Therefore, following an opinion rendered by the attorney general, this department does not attempt to enforce or make arrests for violation of the said Volstead Act.

There is a condition of lawlessness there.

However, if called upon by members of the Prohibition Enforcement Unit when making raids, and so forth, officers from this department are sent to accompany such members to prevent interference with the Federal officers, but they do not take any part in the raids.

Mr. BRUCE. Let me read some absolutely authentic figures——

Mr. McKELLAR. This is signed by George C. Henry, chief of inspectors. Is he a reputable man?

Mr. BRUCE. All the members of our police force are.

Mr. McKELLAR. Is he an honest man?

Mr. BRUCE. Yes.

Mr. McKELLAR. Does he tell the truth?

Mr. BRUCE. I have no reason to believe the contrary.

Mr. McKELLAR. Then, there is his letter, and I offer it.

Mr. BRUCE. I think he will compare favorably even with any Senator in that respect.

Mr. McKELLAR. I have no doubt of it. I ask that this letter and letters from other chiefs of police be printed in the RECORD.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

[See Exhibit A to Mr. McKELLAR's remarks.]

Mr. BRUCE. The statistics given to me by the police chief of Baltimore city are as follows. Of course, my comparison is always between years subsequent to the enactment of the Volstead Act. There is no profit in going back to a period antedating the passage of that act.

Mr. McKELLAR. No; the figures would be disconcerting to the Senator if he did.

Mr. BRUCE. Not in the slightest. Surely the machinery of oppression which the Federal Government has put into force would be contemptible in the last degree if it had not worked some change in conditions.

Mr. McKELLAR. Does the Senator mean to contend that when a constitutional amendment has been adopted, and Congress has enacted a constitutional prohibition law to enforce that constitutional amendment, that is an act of oppression? The Senator has just said it was.

Mr. BRUCE. There is not a sterner stickler in the land for the enforcement of law than I am.

Mr. McKELLAR. The Senator does not talk like it on the floor.

Mr. BRUCE. In the city of Baltimore we have two Federal judges as upright and able as can be found in this country, and rigid and stern judges, too, and I honor them for the scrupulous fidelity with which they have enforced the prohibition law, as well as all other laws.

Now let me get back to the statistics, because I am not going to be led away from that trail if I can help it. The police commissioner for Baltimore city gave me these figures. In 1920 the number of arrests for drunkenness in Baltimore were 1,785. In 1921 they were 3,258. In 1922 they were 4,955. In 1923 they were 6,235. In 1924 they were 6,029, or more than in 1912, before the adoption of the eighteenth amendment.

Mr. McKELLAR. If the Senator will permit me, I will continue to read Judge Williams's letter, which refutes the same sort of statistics which were put in the RECORD not long ago as to the city of Knoxville, taking up the letter where I was interrupted. He said:

Since the war the police departments have adopted much of the red tape of the Army records, making the arrests appear much greater than formerly. The police make a report of every arrest, and this report is checked against the number of arrests made in order to see if they are doing their duty in making full reports. In my own county I have seen five warrants for one arrest, and perhaps the person was guilty of only one offense. Another reason why the number shows up large is that a bootlegger will not allow the party purchasing liquor from him to stay around his place. Officers now are more alert. If they smell liquor on his breath, some will arrest him to see if he has any in his pocket and thus get a possession or transporting case against him.

This letter was sent to me by Judge Williams, without request from me.

Mr. BRUCE. Mr. President, will the Senator yield?

Mr. McKELLAR. I will in a moment. In the city of Knoxville, a city certainly as well governed and as orderly a city as there is in the country, in my judgment, in a city where I have seen no drunkenness since the national prohibition law went into effect, is a judge who in his statement refutes absolutely figures that have been presented here before.

Mr. BRUCE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Maryland?

Mr. McKELLAR. I yield only for a question, because I want to get through this afternoon. I hope the Senator will ask me a question and not make a speech in my time. I want to be very courteous to the Senator.

Mr. BRUCE. Here is a judge in Knoxville who gives this roseate picture of social conditions——

Mr. McKELLAR. He is telling the facts.

Mr. BRUCE. And here is this other public authority who writes to me that in 1924 in this city, where the Senator from Tennessee has never been able to discern a drunken man, 4,456 persons were arrested for drunkenness for the year 1924.

Mr. McKELLAR. I do not live in that city. I have no doubt there are violations in the city. But we have laws against murder. Would the Senator repeal the laws against murder because people are murdered in his city almost every day? Does he contend that we should not have a law where there is a violation of it?

The Senator can not possibly take a position like that. We have laws against stealing, against larceny. Would the Senator repeal such laws because there are thousands of people who steal every day. Would he repeal the laws against burglary because we have burglars who do their nefarious work, largely in the nighttime, in every city in the land?

Mr. BRUCE. No——

Mr. McKELLAR. Would he repeal all laws that are violated? If we should, we would not have any law. We will relapse to barbarism. I say that the prohibition law is being better enforced every day, and instead of people becoming dissatisfied with it, I believe that if it were submitted to a vote of the people in the land, the majority would be more enormous than ever before in favor of it.

Mr. BRUCE. In connection with the arrests for drunkenness, there is just another thing that I would like to bring to the attention of the Senator from Tennessee, who has been very considerate, indeed, in allowing me to interrupt him.

Mr. McKELLAR. I am very happy to do so.

Mr. BRUCE. Of course, under the old saloon conditions, a man was likely to get drunk at the corner saloon and then go staggering home and be arrested by the police on the way. Drunkenness was visible then, highly visible.

Mr. McKELLAR. Men drank more then, the Senator means to say.

Mr. BRUCE. No; I did not say that.

Mr. McKELLAR. One can not get drunk unless he drinks more, and it can not be visible unless people drink more.

Mr. BRUCE. Drunkenness had a much higher degree of visibility then. That is the point I want to make.

Mr. McKELLAR. It was more dignified and more honorable in the old days.

Mr. BRUCE. Now, a man buys his bootleg liquor and is likely to go home and get drunk under his own rooftree, where he is never visible to the police at all.

Mr. BROUSSARD. Mr. President, may I ask the Senator from Tennessee a question?

Mr. McKELLAR. I yield.

Mr. BROUSSARD. Was the letter the Senator read from a Federal judge?

Mr. McKELLAR. No; and I am glad the Senator reminded me of that. This letter is from a municipal judge, who attends to the police business in Knoxville. But I want to say right here now, since the Senator has suggested the matter of Federal judges, that I wrote a letter a short time ago to the Federal judges of the land; not all of them—I do not remember how many there are—but I think I wrote 26 letters to Federal judges throughout the land. It has been charged on this floor time and again in the last few months, charged in the public press, and charged in the House of Representatives, that the courts were cluttered up, were glutted, that they were all behind, that litigants in other matters could not get a fair show, that our courts were going to the demnition bow wows because the prohibition laws were taking up all the time of the judges.

I wrote 26 letters, and I have 18 replies from men who are as honorable as are to be found anywhere in the country. The Senator from New Jersey [Mr. EDWARDS] smiles. My recollection is that one of the replies was from a judge in his State. There was one from a Federal judge in Baltimore, and there is one from almost every section of the country. With two exceptions that I remember, they are practically all up with their dockets, and they all say they are capable of enforcing the law.

Mr. BRUCE rose.

Mr. McKELLAR. I want to say to the Senator from Maryland, before he interrupts, that the one complaint, as I recall, or the chief complaint, I will put it, that the Federal judge in Baltimore had to make was that they needed another judge there for the general business, and he said there was a bill now before the Congress, and he hoped that it would be passed, and I hope it will be passed.

Mr. BRUCE. I introduced a bill only two or three days ago for the appointment of another judge for Maryland.

Mr. McKELLAR. I will help the Senator pass it.

Mr. BRUCE. The need for that judgeship is occasioned by the swelling increase in the number of convictions under the Volstead Act.

Mr. McKELLAR. The judge in Baltimore does not so put it, and I call attention to his letter that will appear in the RECORD to-morrow.

At this point I ask unanimous consent that at the conclusion of my remarks, just after the letters from the chiefs of police and the replies thereto, I may insert the letter which I wrote to the several judges, and the 18 replies that I received from Federal judges throughout the country. As I remember, the one in Minnesota and the one in Buffalo were slightly behind with their dockets due to insufficient help or an insufficient number of judges to some extent, and to some extent in their opinion due to the prohibition law. As to all the rest or most of them, it will be seen that the judges are not complaining of the prohibition law, but are doing their duty and trying to enforce the law.

I digress here long enough to say that in my judgment the Federal judges upon whom has been devolved the duty of enforcing the prohibition law are doing their best, and if Congress would let them alone and give them a fair show, it would not be long before the prohibition laws would be enforced as well as the other laws.

The PRESIDING OFFICER. Without objection, the request of the Senator to insert the material at the point requested will be granted.

(See Exhibit B to Mr. McKELLAR'S remarks.)

Mr. BRUCE, Mr. BROUSSARD, and Mr. EDWARDS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Tennessee yield, and if so, to whom?

Mr. McKELLAR. I yield first to the Senator from Louisiana.

Mr. BROUSSARD. I wish to say to the Senator from Tennessee that about two weeks ago I inserted in the RECORD statistics furnished by Chief Director Jones stationed at Washington. He is the head of the bureau.

Mr. McKELLAR. The Senator knows what is said about statistics.

Mr. BROUSSARD. If the Senator does not want to permit me to ask a question——

Mr. McKELLAR. I beg the Senator's pardon.

Mr. BROUSSARD. I notice that the Senator does not want to allow me to ask a question. Does he want to get the facts in the RECORD?

Mr. McKELLAR. I shall be very glad.

Mr. BROUSSARD. The Senator certainly does not seem to indicate any such desire.

Mr. McKELLAR. I beg the Senator's pardon. I did not intend to cut him off in any way. I was just making a facetious remark or suggestion. If the Senator does not desire to proceed, I will yield now to the Senator from Maryland.

Mr. BRUCE. I have no fault to find whatever with the courtesy of the Senator from Tennessee.

Mr. McKELLAR. I am sure I did not mean to be in the slightest degree discourteous to the Senator from Maryland.

Mr. BRUCE. I simply want to say that as I remember at this moment—and if I am wrong I will correct the figures—in 1922 the number of convictions for violation of the Volstead Act in the Federal courts of Maryland was about 400. Last year they were about 1,100.

Mr. McKELLAR. That shows they are enforcing the law even in Maryland, and it is surprising in view of the fact that the State of Maryland does not have an enforcement law and will not enact an enforcement law, although I hope she may do so. I think it is very necessary that the State of Maryland should help the Federal Government to enforce the prohibition laws, as they do in all the other States except one or two.

Mr. BRUCE. I thank the Senator from Tennessee. I will pass that suggestion on to the officials of Maryland.

Mr. McKELLAR. Then I hope it may do some good.

Mr. EDWARDS. Mr. President, may I ask the Senator which are the one or two States to which he referred?

Mr. McKELLAR. I think one is Maryland and the other New York. How many more there are, I do not know.

Mr. EDWARDS. I do not know of any.

Mr. McKELLAR. I imagine that Connecticut and Rhode Island, which never ratified the eighteenth amendment at all, perhaps have no State enforcement laws.

Mr. EDWARDS. I think they have.

Mr. McKELLAR. That is to their very great credit. That means that even though they did not approve of the eighteenth amendment, yet after it is passed like good American citizens they were willing to obey the law and to help the Federal enforcement officers enforce the law.

Mr. EDWARDS. In other words, the Senator means that they were willing to try it and see if it would be effective, and they have decided that it is not effective.

Mr. McKELLAR. I have not seen that decision. There can be but one decision on the subject and that is by the Congress.

Mr. EDWARDS. Oh, no. That is a question before the people of the United States.

Mr. McKELLAR. I may be mistaken, but I think I am right.

Mr. BRUCE. I will say to the Senator from Tennessee that my attention was called a few days ago to a statement by one of the United States district attorneys in the State of New Jersey, where they have an enforcement law, that now 90 per cent of all the criminal cases that are tried in the State of New Jersey arise under the Volstead Act.

Mr. McKELLAR. If I were not afraid that my beloved friend from New Jersey would get angry with me——

Mr. EDWARDS. Oh, no; not at all.

Mr. McKELLAR. He is one of the finest men in the world and never touches a drop himself. He is as dry as the desert of Sahara and yet he votes wet. If I were not afraid he would get a little angry with me, I would say that it is because of his well-known view that he wants New Jersey to be as wet as the ocean.

Mr. EDWARDS. May I ask the Senator if it is not that wet?

Mr. McKELLAR. Not quite. I hope it never will be.

Mr. BROUSSARD rose.

Mr. McKELLAR. I will yield to the Senator from Louisiana if he wishes to interrupt me?

Mr. BROUSSARD. Provided the Senator does not interrupt me before I complete my question.

Mr. McKELLAR. I will try not to do so.

Mr. BROUSSARD. I was referring to the statistics. I have sent for them and intend to insert them in the RECORD. I obtained them from Chief Director Jones, showing not only that arrests for drunkenness have increased since 1920 but that the number of convictions has increased and the number of pending cases has increased throughout the United States. What I wanted to come back to when the Senator diverted me was to inquire whether the letter to which he referred was from a Federal or a municipal judge?

Mr. McKELLAR. It was from a municipal judge.

Mr. BROUSSARD. I understood the Senator to read the last words to the effect that at this time if a policeman or officer smells liquor on a man's breath he searches his person.

Mr. McKELLAR. No; I do not think he goes quite that far. He said:

If they smell liquor on his breath, some will arrest him and see if he has any in his pocket, and then get a warrant for possession or transporting against him.

Mr. BROUSSARD. I wanted to call the Senator's attention to the statement he made a little while ago about the fourth and fifth amendments to the Constitution being observed.

Mr. McKELLAR. I do not agree with the Senator about that for the reason that if a policeman smells liquor on the breath of a man and arrests him and after arresting him searches him and finds that he has liquor on his person and had been transporting it, in my opinion that is not a violation of law on the part of the policeman. If it were a violation of the law, it would be the easiest thing in the world to determine. I am not passing on the question myself because I never have practiced criminal law and do not know very much about it, but I have some doubts about whether it would be a violation of the law.

Mr. President, still referring for just a moment more to my own State, in the country portions of the State the conditions as to prohibition, of course, are much better. There are moonshiners and illicit stills to be found there now, but they are inconsequential in comparison with those found in preprohibition days. I am familiar with every part of my State. I have gone into every county. I know the people. I know the conditions that exist in the great cities. I was familiar with conditions before prohibition, and I am familiar with the conditions since prohibition, and I have not the slightest doubt, as I stated once before on this floor, that there is not one-tenth as much liquor drunk in my State as there was before prohibition. I believe the proportion is much less than this figure. Nor is there the slightest doubt of a marvelous improvement in every condition and affair of life in our State since we have had prohibition. Our schools are infinitely better. Our schoolhouses enormously increased in numbers, in comfort, and in size; schools are better attended; our churches are better attended; our laws are better enforced; all classes of our people are more prosperous. The colored people in my State have been infinitely benefited by prohibition; the laboring people of my State have likewise been infinitely benefited by prohibition; the manufacturers of my State have been tremendously benefited; savings-bank deposits have been enormously increased; homes owned by small home owners have been enormously increased. There are countless thousands of laboring men in Tennessee who formerly had to tramp to and fro from their work and who now come and go in automobiles. Thousands of farmers who either walked or rode mules or in the most primitive wagons now go and come in automobiles. Public busses gather up the children in country districts and take them to school. Our lands are more valuable; our farms are better tilled; our mines are better worked; our factories are better conducted; and all classes of laboring people get more for their toil. The money that formerly went to the saloon is now going into homes, into schoolbooks for children, to the payment of church dues, for clothing for families, in automobiles, into the improvement of the inside of homes, for radio sets and Victrolas in homes, and countless numbers of necessities and luxuries which many of our people did not have in the old days of the saloon, for then their money went for liquors. Many people who formerly spent their evenings and nights in saloons now spend the evenings at home with their families or with them in picture shows where their education is widened and where they receive a quiet, amusing, and interesting and improving surcease from daily toil. Prohibition in Tennessee has been a great success, and we are enforcing the law better and better all the time.

DRINKING IN THE UNITED STATES

But it is said that the American people are drinking just as much as ever before. This statement is absolutely without foundation. There is not a word of truth in it. The facts and figures wholly disprove the statement. Besides this, there is not any fair-minded man who can truthfully say he believes there is as much drinking now as there was in the old days of the saloon. I served in the House in Washington from 1911 to 1917, during which time the saloons were open in the city of Washington. I was familiar then with the habits of Congressmen and Senators, and I dare say that there is not one-tenth—I do not believe one twenty-fifth—as much drinking among Congressmen and Senators now as there was then. I do not believe there is one-tenth as much drinking in the city of Washington now as there was then.

In the Washington Post of December 12, 1925, Mr. George Rothwell Brown, one of the ablest newspaper men in the city of Washington, a man who has lived long here and has had a wonderful experience—one of the most delightful and entertaining paragraphers I have ever read after; I read his column on the front page of the Post the first thing every morning—had this to say:

The distinguished Senators who so earnestly contend that there is more drinking in Washington to-day than there used to be in the "good old days" before prohibition are doubtless newcomers, who don't remember when, back in Reed's time, there was a bar under the House of Representatives, when gentlemen drank their way up the Avenue every afternoon from Brock's to Shoemaker's, stopped in for a moment at the old Willard bar for Tom Ochiltree's latest story and a cocktail, dined with Sam Ward, topped off the evening at John Chamberlin's, and went home at 2 a. m. in open-faced hacks with both feet out of the windows. They don't remember "Rum Row" and "Sawdust Hall," the race-track crowd that flocked back from St. Asaph's for a little refreshment at Hancock's every evening, the foaming steins in the old Lawrence beer garden, the post-graduate course at the University of Gerstenberg, and the nightcap at the old Owen House. More drinking in Washington now! Shades of Count Perreard!

Mr. Brown, of course, is right. And his opinion is absolutely substantiated by the facts.

Mr. President, at this point I ask to have printed as a part of my remarks a letter from Major Hesse, superintendent of the Metropolitan police force of the District of Columbia, which further proves my contention.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letter is as follows:

DISTRICT OF COLUMBIA METROPOLITAN POLICE DEPARTMENT,
Washington, D. C., February 17, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

DEAR SENATOR MCKELLAR: Inclosed herewith please find answers to your letter of the 13th instant.

With best wishes,

Very truly yours,

EDWIN B. HESSE,
Major and Superintendent.

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
February 13, 1926.

CHIEF OF POLICE, *Washington, D. C.*

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement, in so far as they affect your city.

How many arrests for drunkenness were there in Washington in 1912 and how many for 1924?—Answer. Arrests 1912, 3,623; 1924, 9,149.

In 1912 was there a local law authorizing the police to arrest for drunkenness alone?—Answer. No. The law providing penalty for intoxication became effective July 1, 1913. Persons in 1912, who were arrested on charge of intoxication, were released when able to care for themselves.

Was there such a law in 1924?—Answer. Yes.

In your judgment, were more liquors drunk in Washington in 1912 than in 1924?—Answer. Yes.

If drinking has increased, state the amount of increase, in your judgment.—Answer. See above.

If drinking has decreased, state the amount of decrease, in your judgment.—Answer. Any statement as to the amount would be a mere guess, but am convinced that decrease is considerable.

What was the number of men and women convicted of drunkenness in 1912 and what was the number in 1924?—Answer. No law in 1912. Information as to convictions in 1924 can only be obtained from the police court.

In your judgment, were as many people seen drunk on the streets of Washington in 1924 as in 1912?—Answer. No.

What was the total aggregate amount of fines imposed for drunkenness in Washington in 1912 and what was the amount in 1924?—Answer. Information can only be obtained by addressing clerk of police court.

In your judgment, was one-tenth as much liquor consumed in Washington in 1924 as in 1912, when all the saloons were open and running all day and much of the night? Answer. In my opinion, no; but it would be extremely difficult to determine.

Were you able to preserve order in the city of Washington better in 1924 than it was preserved in 1912, when all the saloons were open? Answer. While I do not think so, it is a question which, in my mind, should be more specific.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

Mr. BRUCE. Mr. President——

Mr. McKELLAR. I yield to the Senator from Maryland.

Mr. BRUCE. The Senator from Tennessee has again gone back to the anteprohibition period.

Mr. McKELLAR. That is what I intended to do.

Mr. BRUCE. I will bring him to earth again. The contrast upon which I insist is the contrast between the years which have elapsed since the enactment of the Volstead law.

Mr. McKELLAR. I am trying to bring the Senator back to water, not to earth.

Mr. BRUCE. Here are the statistics with reference to arrests for drunkenness in Washington. In 1920 there were 5,415; in 1921 there were 6,370——

Mr. McKELLAR. Just a moment.

Mr. BRUCE. Is not the Senator going to permit me to interrupt him? I thought he yielded to me.

Mr. McKELLAR. I did. I am putting my statistics in the RECORD as an exhibit to what I am saying. I am not reading them. I am doing that for the purpose of saving time. I want to ask the Senator if he will not put his statistics in the RECORD in the same way and at the same place in the RECORD to refute, if they do refute, what I have placed in the RECORD?

Mr. BRUCE. The Senator's statistics are voluminous.

Mr. McKELLAR. They are not as voluminous as those of the Senator from Maryland.

Mr. BRUCE. My statistics are luminous. [Laughter.]

Mr. McKELLAR. I will yield to the Senator to state what he wishes.

Mr. BRUCE. As I said, the number of arrests for drunkenness in Washington in 1920 were 5,315; in 1921, 6,375; in 1922, 8,368; in 1923, 8,128; in 1924, 10,354; and in 1925 upward of 11,000.

Mr. McKELLAR. Mr. President, all I can say about it is that I think any man, I do not care who he is, who has lived in Washington before prohibition days and since prohibition days knows that there is not one-tenth as much liquor drunk here now as then.

I wish to say further that, so far as arrests are concerned, it may be the officers are enforcing the law better. There have been violations of the prohibition law here in the city of Washington, but I hope that the law is being better enforced; I believe it is being better enforced. I want to congratulate the authorities on the better enforcement of the laws. Instead of discrediting the cause of prohibition, even the figures which the Senator from Maryland [Mr. BRUCE] has produced go to prove that we are better enforcing the law all the time.

STATISTICS SHOW LESS LIQUOR DRUNK

Statistics taken from Government reports show, beyond question, that there could not be as much drunk now as formerly. I herewith give these statistics as they have been furnished me.

Mr. President, I intended to ask that these statistics be merely put in the RECORD without reading, but inasmuch as the Senator from Maryland has put in the figures that he has in my speech I am going to read these figures. They are not very long. I do that for another reason. The Senator from Maryland has offered those same figures, I am quite sure, three times, whenever I have been on the floor and have discussed this subject; and I think we ought to have figures about which there can not be any doubt.

Before prohibition the national drink consumption was mounting yearly. In 1917, the last year of comparatively unrestricted sale under license, according to the United States Statistical Abstract, 1922, page 697, we consumed 42,723,376 gallons of wine, 1,885,071,304 gallons of malt liquors, and 167,740,325 gallons of distilled spirits. These wines contained over 6,500,000 gallons of pure alcohol, the dry wines ranging from 12 to 14 per cent and the port and sherry from 12 to 24 per cent alcohol. The distilled spirits contained 83,870,000 gallons of pure alcohol. The malt liquors contained 75,402,852 gallons of pure alcohol. This makes a total beverage consumption of pure alcohol in 1917 of 165,772,000 gallons. Those who maintain that the Nation is drinking as much as ever must show where such a quantity of alcohol is obtainable illicitly to-day. Probably the highest estimate of diverted alcohol claimed that 90,000,000 gallons of hard liquor or 55,000,000 gallons of pure alcohol was entering bootleg channels, and this estimate was based on a misconstruction of alcohol withdrawals.

Withdrawals of tax-free alcohol increased from 22,388,000 wine gallons in 1921 to 81,808,000 gallons in 1925. Of that total production of denatured alcohol 46,983,969 gallons were completely denatured. To redistill this alcohol would be impracticable, if not impossible. It was not a source of illicit beverage liquor. The consumption of this completely denatured alcohol can practically all be accounted for legitimately. As far back as 1917 and 1916 the annual use of completely denatured alcohol was over 10,000,000 gallons per year. Since then the winter use of the automobile and the motor truck has developed. Little alcohol was used in auto radiators seven or eight years ago. The increased consumption of completely denatured alcohol has kept pace with the increased registration of motor vehicles. In 1924 it is estimated that the average automobile used 2 quarts of antifreezing solution per month during the freezing periods in those States where the temperature falls below the freezing point. Under the Department of Agriculture figures on the months of freezing weather in each State the 17,591,981 autos registered in 1924 consumed 32,443,836 gallons of completely denatured alcohol. The auto registration in 1925 was over 20,000,000, requiring over 37,000,000 gallons of completely denatured alcohol. This, plus the 10,000,000 gallons used annually in 1917 or 1918 for other legitimate purposes, accounts for the entire production of completely denatured alcohol in the last fiscal year—46,983,969 gallons.

Such diversions as occur are in the specially denatured groups. Specially denatured-alcohol production in 1925 was 34,828,303 gallons. Scores of industrial uses which were nonexistent five years ago use most of this alcohol. Henry Ford draws 75,000 to 100,000 gallons each month for the manufacture of artificial leather. Artificial-silk makers consume large quantities. Over 24,000,000 gallons of this specially denatured alcohol is not redistillable. Only 11,000,000 can be made potable cheaply and practically. This is far less than the amount of potential supply for beverage use through diversions in 1922, when 12,000,000 gallons of potable alcohol was withdrawn. Such withdrawals were reduced in 1925 to 4,500,000 gallons, a decrease of 7,500,000 in that period. While it is possible that some of that alcohol was diverted, no one asserts that all or a considerable quantity was.

Mr. President, I ask that as a part of my remarks I may print the remainder of the statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

Of the 11,000,000 gallons of redistillable denatured alcohol released in 1925 it is possible that half may have been diverted to the illicit trade. Doctor Doran, of the Prohibition Unit, so testified before a committee of Congress last year. If 6,000,000 gallons were diverted, this would have furnished 12,000,000 to 15,000,000 gallons of illicit liquor. Seizures by Federal officers account for 1,102,787 gallons of spirits and 569,921 gallons of wine. Seizures by State and local enforcement officers will account for at least as much, if not several times this total. The remainder, available to the bootlegger's customer, would not make a very large drop in the prohibition glass.

The moonshining output is grossly overestimated. Seizures of stills with a capacity of several hundred gallons are quoted sometimes as evidence of the magnitude of illicit distilling. These stills are few. Their output is small. Those who estimate illicit-liquor production in terms of millions of gallons do not realize that a million gallons of liquor would mean from 130 to 140 carloads. Ninety times that sum would mean a quantity which would create a troublesome transportation problem, even if it did not have to be moved clandestinely.

The activities of the Coast Guard have eliminated Rum Row as an important factor in the illicit liquor supply. From over 300 vessels that hovered off the coast the row has been reduced to an occasional vessel or two. Captures of small boats plying between the supply ship and the shore have aided in this reduction. Cooperation between Canadian and United States officials has checked the flow of liquor over this border. Few of the most ardent wets to-day claim that smuggling liquors play any prominent part in the enforcement problem.

The per capita consumption of liquors of all kinds before prohibition was estimated (by the United States Statistical Abstract) at 20.2 gallons per year. This estimate made no allowance for any teetotalers. It has been frequently claimed that there were 20,000,000 adult drinkers before prohibition. On that basis the per capita allowance of liquors was 108.7 gallons per year.

If the 20,000,000 former drinkers are still unreformed, the 15,000,000 gallons of possible liquor made from diverted alcohol, plus an unverified 10,000,000 gallons from smuggled supplies or moonshine sources, would give each of the old-time drinkers 5 quarts per year, in place of the former 108.7 gallons. If, on the other hand, there are remaining to-day only 2,500,000 drinkers, occasional as well as steady, there would be 10 gallons apiece for them each year, or a little over a pint and a half of liquor a week.

The decrease in consumption is probably greater than this. Besides the license liquor sold in 177,790 saloons, there were the illicit liquors distilled by moonshiners and the "split" by which liquors were adulterated to two or three times their original quantity. Charles D. Howard, chemist of the New Hampshire State Board of Health, some time ago declared that "probably as much as 90 per cent, if not more, of the whisky and gin as sold by the glass over the bar of the common saloon in preprohibition days was synthetic either wholly or mostly." No one knows exactly how much intoxicating liquor the Nation consumed before prohibition. It is certain, however, that it was much more than the total reported by the Internal Revenue Bureau figures.

Mr. McKELLAR. Mr. President, it seems that the British ambassador was called on in 1923 for a memorandum on the subject of the effects of prohibition in the United States. Ambassador Geddes furnished that report. He reported that the amount of intoxicating liquor now consumed on a 100 per cent basis of that consumed formerly was indicated by reports from three sources—the Anti-Saloon League, the Association Against the Prohibition Amendment, and the Federal Prohibition Unit of the Treasury. The Anti-Saloon League said that 20 per cent as much whisky was now consumed as before; the Federal Prohibition Unit said 20 per cent, the Association Against the Prohibition Amendment said 66 per cent. Ambassador Geddes then says:

Prohibition of intoxicating liquor has on the whole been effective in the rural districts and in the smaller towns throughout the country. It is less effective on the eastern seaboard and in the vicinity of the Great Lakes, where powerful organizations of liquor smugglers succeed in effecting a regular traffic in imported intoxicants.

Large quantities of homemade liquor are also brewed, but it has proved to be poisonous in many cases, and the practice is reported to be on the decrease. According to opinions given by the Association Against the Prohibition Amendment, the fact that the consumption of intoxicating liquor is illegal has in itself been sufficient to lead many Americans who formerly drank little or nothing to conform to a fashionable habit at social gatherings of carrying small pocket flasks of home-brewed or imported spirits.

Ambassador Geddes also showed two different opinions in reference to arrests for drunkenness, the Anti-Saloon League and the Federal Prohibition Unit claiming there was only 50 per cent as many arrested for drunkenness and the Association Against the Prohibition Amendment claiming there was just as many. As to deaths from alcoholism, these three institutions again varied, the Anti-Saloon League and the Prohibition Unit claiming only 20 per cent and the Association Against the Prohibition Amendment claiming there were five times as many. But the ambassador then gives the figures and shows that the death rate has been almost constantly decreasing. The ambassador thus concludes:

Since the adoption of prohibition a marked increase, which is computed at 40 per cent, has taken place in the amount of deposits in savings banks. The supporters of prohibition in the United States claim that the average wage earner now has considerably more money to spend on the education of his children, on the furnishing of his home, on dress, sports, and amusements. They also affirm that prohibition has caused increased production in the factories and that many employees who in former days absented themselves regularly on the Monday and even on the Tuesday of each week now work a full six-day week. So many other factors have contributed to restore economic conditions in the United States since the war that it is almost impossible to form any estimate of the extent to which prohibition has contributed to this recovery or otherwise.

I think these views of the ambassador are exceedingly important, as showing a foreign view, though, as Great Britain is not a prohibition country, it might not be a wholly disinterested view.

PROHIBITION IN THE WORKINGMAN'S HOME

Mr. President, recently the National Conference of Social Work sent a questionnaire to 2,700 members. This questionnaire yielded only a 10 per cent return, but the results of the questionnaire are interesting. I here quote them:

1. The effect of prohibition on the homes of working people

Furnishing of homes:	
Better	203
Worse	6
No change	24
Answers blank	35
Do wives and families get larger or smaller proportion of husband's income?	
Larger	203
Smaller	7
No change	21
Answers blank	37
Marital relation:	
Improved	165
Worse	17
No change	23
Answers blank	64
Sanitary and health conditions in homes:	
Better	182
Worse	5
No change	31
Answers blank	51
Mental health of the homes, as shown by better family cooperation, respect of children for parents and of parents for children, and by higher educational ideals:	
Better	152
Worse	25
No change	30
Answers blank	42

I call especial attention to the following. I hope that the fathers of the country may read this and that the mothers of the country also may read it:

2. The effect of prohibition on the community as regards industrial, social, and moral conditions

Children's delinquency:	
Increasing	63
Decreasing	81
No change	38
Answers blank	85
Drinking by young people as compared with preprohibition times:	
More	109
Less	95
No change	10
Answers blank	50
Cases of malnutrition among children under 15:	
Increased	25
Decreased	107
Remained unchanged	55
Answers blank	102
Attitude toward law enforcement and respect for laws in general:	
Better	66
Worse	139
Unchanged	24
Answers blank	40
Liquors for minors:	
More accessible	66
Less accessible	130
Unchanged as to accessibility	15
Answers blank	57

COST OF PROHIBITION

Mr. President, when the advocates of liquor run out of every other argument, they tell about the enormous cost of prohibition. This is a myth. As a matter of fact, the net cost of enforcing prohibition is very small. It is true we appropriated $11,000,000 for enforcing the prohibition and narcotic acts, $9,000,000 of which was spent on prohibition enforcement, but we received in fines, which were actually collected and put into the Treasury, $5,769,000, and this $5,000,000 collected in fines does not include the amount of fines collected in State courts where cases were brought by Federal agencies. In Ohio alone there were of these fines $2,000,000 collected, against which the State prohibition department spent $105,000 for enforcement. All States except New York and Maryland collect fines in State courts. So that it is seen that fines collected more than offset the cost of prohibition, and prohibition prosecutions pay their own way.

Mr. BROUSSARD. Mr. President, will the Senator yield?

Mr. McKELLAR. Yes.

Mr. BROUSSARD. Did we not appropriate $25,000,000 this year in the attempt to enforce prohibition?

Mr. McKELLAR. No; we appropriated $11,000,000 to enforce the prohibition and narcotic acts. The Senator is on the Appropriations Committee and will recall the amount.

Mr. BROUSSARD. What about the cost of the activities of the Coast Guard and other agencies?

Mr. McKELLAR. There has been an increase for the Coast Guard. I can not give the Senator the figures.

Mr. BROUSSARD. We are building ships for the Coast Guard a hundred at a time and are spending over $25,000,000 a year in the effort to enforce the prohibition law.

Mr. McKELLAR. Oh, no; the amount is nothing like that much.

PROHIBITION AT A DISADVANTAGE

Mr. President, the truth is and the fact is that the prohibition amendment and laws have had a stormy career. A very

remarkable thing has happened. For 50 years the great forces of temperance in this country, the great forces of law and order and of sobriety in this country, have struggled to make this a dry Nation. In 1919 their hopes were realized. In 1920 the law went into effect and in 1921, just as it was being put into effect, by a strange streak of fortune—if it may be so called—the enforcement of those laws was put into the hands of a man more interested in liquors, more interested in beers, than perhaps any other man in this Republic. It was put in the hands of a man who was the half owner of one of the biggest distilleries in this land. It was put in the hands of a man whose many banks had money invested in or loans made to innumerable distilleries and breweries, and the enforcement laws have been in the hands of that man ever since. That man is the Secretary of the Treasury.

The law of the land prohibits the Secretary of the Treasury from being interested in liquors in any way. The fact that he is interested in liquors disqualifies him from holding that office; and in an attempt to avoid this disqualification Secretary Mellon upon being appointed Secretary, transferred his liquors to a trustee, but this did not change his situation in regard to liquor. He still owned the liquors. He was still the beneficiary of the trust and the trustee was one of his own banks that he controlled. So I say, Mr. President, that the liquor laws have had a difficult time. Is it not a marvelous thing that the temperance people of this country should work for 50 years to have prohibition laws passed, and, after winning their fight, that these laws should be turned over to one of the largest distillers in America, to one more interested in intoxicating liquors than perhaps any other man in the Republic?

I saw by the newspapers some time ago that Mr. Mellon had sold $18,000,000 worth of his liquors. I hope that constituted all. How he sold these liquors without violating the law himself I do not know, but at all events the papers said he sold them. I then expressed the hope, as I now express the hope, that having gotten rid of his liquors the Secretary of the Treasury would be in better position to enforce the liquor laws of the land which were intrusted to him. When he selected General Andrews I thought this was a good sign. I believe General Andrews is a man trying diligently to enforce the liquor laws; but I have observed recently that the Secretary has turned down the recommendations of General Andrews. I regret to see this. I was hoping for better things of the Secretary in his administration of the liquor laws. I hope he will yet change his mind and conclude to uphold General Andrews and law enforcement. I fear, however, Mr. President, it is but another exemplification of the old adage that it is difficult for a shoemaker to change his last. Mr. Mellon has been in the liquor business so long that it is difficult, even after he sells his liquor, to discard his friendly interest in the business.

LAW ENFORCEMENT

Mr. President, in conclusion I want to add a few words about law enforcement. One of the defects in American character, I regret to say, is a lack of respect for law—not only the liquor laws but of all laws. It is a great defect. It is a defect that we could easily cure. There should be some systematic effort to teach respect for law among all our people. It should be taught in our schools and colleges. It should be inculcated in the homes among the children. No effort should be spared to teach the youth of our land to stand by and uphold the laws of our country.

Mr. President, we have a wonderful country. We have a marvellously good Government. Our laws for the most part are good laws. We should uphold these laws. We can not uphold our Government unless we uphold the laws by which that Government is administered.

One more word, Mr. President, and I am through.

A poll is being taken as to the modification or repeal of the liquor law. In this poll it seems that more than half a million votes have been taken. Just what the rules and regulations are I do not know. The poll shows in favor of prohibition only 76,000, in round numbers; for repeal, 186,000; for modification, 263,000. That is a report from one two-hundredth part of the American people. Take my own State: The report is 22 for the prohibition laws, 1 for the repeal of the prohibition laws, 18 for modification. What does that indicate, Mr. President? Not a thing.

I have the utmost respect for all those who differ with me about this matter, for all those who believe in liquor rather than in sobriety. I have no charges of any kind to make; but I want to say to these people that statistics of that sort do not prove anything. There is but one way to prove what is the popular will, and that is the constitutional way. If there are so many people in favor of changing these laws, if the enormous majority that is here mentioned is in favor of modifying or repealing these laws, why is it not reflected in this body and the body at the other end of the Capitol?

Mr. President, Senators talk about the repeal of these laws. Fights about them were conducted in many States at the last election. What happened? Is this body any less dry than it was then? There are just as many Senators here to-day, and, I suspect, just as many House Members who would vote against any modification of the present dry laws as there were last year; and I want to say that in my humble judgment, notwithstanding the publication of these figures, at the end of this year, when another election is held, it will be found that the great body of the Members of the House will be dry, and it will be found that the Members of this body are just as dry as before.

You know, some few people when they talk a great deal make a lot of noise; but when it comes to voting, where the voting counts, we see the result, and that result is reflected in this body. I take it that no man here from a wet State does anything but reflect the views of his State. I take it that no man here from a dry State does anything but reflect the views of his State. We are the representatives of those States. No better judgment can be formed of the public sentiment of this land than from the representatives that they have in this body and the body at the other end of the Capitol.

So, Mr. President, I want to say in all kindness, with all respect to those gentlemen who have a different view of the subject, that in my humble judgment this talk about a repeal or modification of the liquor laws of this country is to a very large degree idle talk, and certainly it will not have fruition at any time in the future, so far as we can determine to-day.

EXHIBIT A

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
February 13, 1926.

CHIEF OF POLICE,
Jackson, Tenn.

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement in so far as they affect your city.

How many arrests for drunkenness were there in Jackson in 1906 and how many for 1924? Nineteen hundred and six, 506 drunks; 1924, 185 drunks.

In 1906 was there a local law authorizing the police to arrest for drunkenness alone? No.

Was there such a law in 1924? No.

In your judgment were more liquors drunk in Jackson in 1906 than in 1924? Yes.

If drinking has increased, state the amount of increase, in your judgment. Has not increased.

If drinking has decreased, state the amount of decrease, in your judgment. Decreased about 75 per cent.

What was the number of men and women convicted of drunkenness in 1906 and what was the number in 1924? Five hundred and six in 1906, 185 in 1924.

In your judgment were as many people seen drunk on the streets of Jackson in 1924 as in 1906? No.

What was the total aggregate amount of fines imposed for drunkenness in Jackson in 1906 and what was the amount in 1924? Nineteen hundred and six, $2,530; in 1924, $2,885.

In your judgment, was one-tenth as much liquor consumed in Jackson in 1924 as in 1906, when all the saloons were open and running all day and much of the night? Yes.

Were you able to preserve order in the city of Jackson better in 1924 than it was preserved in 1906, when all the saloons were open? Yes; in my judgment.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
February 13, 1926.

CHIEF OF POLICE, *Knoxville, Tenn.*

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement in so far as they affect your city.

How many arrests for drunkenness were there in Knoxville in 1912 and how many for 1924? 1912, 2,072; 1924, 3,516.

In 1912 was there a local law authorizing the police to arrest for drunkenness alone? Yes.

Was there such a law in 1924? Yes.

In your judgment, were more liquors drunk in Knoxville in 1912 than in 1924? Yes; because there was more liquor here.

If drinking has increased, state the amount of increase, in your judgment.

If drinking has decreased, state the amount of decrease, in your judgment. Drinking has decreased, but I am unable to state the amount.

What was the number of men and women convicted of drunkenness in 1912 and what was the number in 1924? I can not give you the correct number. The report is not made for men and women for drunkenness.

In your judgment, were as many people seen drunk on the streets of Knoxville in 1924 as in 1912? I can not say.

What was the total aggregate amount of fines imposed for drunkenness in Knoxville in 1912 and what was the amount in 1924? The report for the police department shows the aggregate of all fines and drunkenness fines are not separate.

In your judgment, was one-tenth as much liquor consumed in Knoxville in 1924 as in 1912, when all the saloons were open and running all day and much of the night? I can not answer this.

Were you able to preserve order in the city of Knoxville better in 1924 than it was preserved in 1912, when all the saloons were open? According to population, we are now able to preserve order as well as in 1912 as far as drunkenness is concerned.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
February 13, 1926.

CHIEF OF POLICE,
Nashville, Tenn.

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement in so far as they affect your city.

How many arrests for drunkenness were there in Nashville in 1912 and how many for 1924?—Answer. Unable to locate records for 1912. Furnishing records for 1913 instead. For 1913, a total of 2,855. For the year 1924, a total of 3,064.

In 1913 was there a local law authorizing the police to arrest for drunkenness alone?—Answer. There was.

Was there such a law in 1924?—Answer. There was.

In your judgment, were more liquors drunk in Nashville in 1913 than in 1924?—Answer. There was.

If drinking has increased, state the amount of increase, in your judgment.—Answer. I do not think it has increased.

If drinking has decreased, state the amount of decrease, in your judgment.—Answer. I think it has decreased about 30 per cent.

What was the number of men and women convicted of drunkenness in 1913 and what was the number in 1924?—Answer. About 75 per cent of each year. The remainder being released on promises and through sympathy of the court.

In your judgment, were as many people seen drunk on the streets of Nashville in 1924 as in 1913?—Answer. No.

What was the total aggregate amount of fines imposed for drunkenness in Nashville in 1912 and what was the amount in 1924?—Answer. Our records are such that we can not secure these figures.

In your judgment, was one-tenth as much liquor consumed in Nashville in 1924 as in 1912, when all the saloons were open and running all day and much of the night?—Answer. More than one-tenth.

Were you able to preserve order in the city of Nashville better in 1924 than it was preserved in 1913 when all the saloons were open?—Answer. Yes.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

NASHVILLE, TENN., *February 15, 1926.*

DEAR SENATOR: With reference to these statements, would say that I am sorry the report for 1912 has been misplaced, and I am substituting the figures of report for 1913 instead, and you will note that the number of people arrested for drunkenness in 1924 is more than in 1913, which is attributed largely to the fact that during the time of 1913, when the saloons were allowed to run open and sell whisky, it was legal, and so long as a man was able to go and not molest anyone, he was not arrested, but since the enactment of the prohibition laws, and the State and city laws as well, every man that is found intoxicated on the streets and elsewhere, whether he is able to go or not, is arrested for intoxication, which as you can clearly see, increases the number of arrests for this charge. Comparing the same two conditions, if the people on the streets under the influence of intoxicants were allowed now to go on, as we did allow them to go in the past when open saloons sold whisky legally, the number of arrests would be decreased considerably. Hoping this is satisfactory, and if I can serve you further call upon me, I remain,

Yours truly,

J. W. SMITH, *Chief of Police.*

COUNCIL OF CITY OF KNOXVILLE,
Knoxville, Tenn., March 1, 1926.

Hon. KENNETH MCKELLAR,
Senate Chamber, Washington, D. C.

MY DEAR MCKELLAR: In reply to yours of February 26, where you ask me about the consumption of whisky in Knoxville before prohibition and since, will say that I believe that my position as city judge now and police reporter on the Knoxville Sentinel for 20 years enables me to make a statement that is based upon facts. I can truthfully say that one saloon of the 125 we had in Knoxville sold more liquor in one day than is consumed in the city of Knoxville in a month now.

It is true that they can cite you figures of large numbers of arrests made at the present day, and the small number made in antiprohibition days. As you and every other citizen knows, in the day of the open saloon a man was never arrested for drinking; he had to be drunk and down before being locked up. Knoxville had 125 saloons; they had back rooms and places for the men to stay in and sober up. And if a man's standing was better than some others, a cab was called and he was sent to his home or hotel. But to-day the police will arrest a man if they smell liquor on his breath, hoping they may get a possessing charge against him. In many cases the large number of arrests are based upon the number of warrants or charges made on the police docket against the same man. Only a few days ago I had a man in court charged with being drunk and driving a car. The officer, working under the directions of the director of public safety, swore out four additional warrants, and after hearing the evidence of the case I found the man only guilty of one offense and gave him $50 and bound him to court, which is the highest penalty I can give. But the report from the police department shows five arrests, when only one man was arrested. There are hundreds of similar cases on my docket.

If Senator BRUCE's dead brother was living to-day, he would tell his brother that there is not near the amount of liquor consumed to-day in the city of Knoxville as there was back in the days of the open saloon. As you know, and every other public man knows, there never was a public or private banquet given but what wine or liquor was upon the table.

The great salvation of prohibition is the saving of the working class. The working men of Knoxville divided more than half of their pay envelopes on Saturday afternoons with the saloon keeper. But to-day that money is carried home, and the good wife fills the market basket and clothes the children with it.

At any time I can serve you, command me.

Yours very truly,

[SEAL.] ROBERT P. WILLIAMS,
Municipal Judge.

POLICE DEPARTMENT,
OFFICE OF THE CHIEF INSPECTOR,
Baltimore, Md., February 15, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

DEAR SIR: 1. I beg to acknowledge receipt of your letter of the 13th instant, and in response thereto I am noting below, in numerical order, replies to the several queries made by you apropos of the prohibition laws and their enforcement in this city:

1. Year 1912, 5,206; year 1924, 6,029.
2. Yes.
3. Yes.
4. Yes.
5.
6.
7. Year 1912, 1,555; year 1924, 3,017.
8. Yes.
9. Fines are not segregated.
10. Yes.
11. Little difference, if any, noted in the matter of preserving order in the year 1924 and the year 1912.

2. For your information, I respectfully call your attention to the fact that the Legislature of the State of Maryland has not passed an enforcement law for violating the Volstead Act; therefore, following an opinion rendered by our attorney general, this department does not attempt to enforce or make arrests for violation of the said Volstead Act. However, if called upon by members of the prohibition enforcement units when making raids, etc., officers from this department are sent to accompany such members to prevent interference with the Federal officers, but they do not take any part in the raid.

Respectfully yours,

GEORGE G. HENRY, *Chief Inspector.*

EXHIBIT B

FEBRUARY 27, 1926.

Hon. WILLIAM I. GRUBB,
Birmingham, Ala.

MY DEAR JUDGE GRUBB: Will you kindly advise me how far behind your court is in the cases on its docket? A charge is being made that

the liquor cases prevent the due administration of justice in the Federal courts. Will you kindly advise me if this is true, in whole or in part? If you think it is true in part, will you kindly advise me the extent in which it is true? I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

UNITED STATES DISTRICT COURT,
New York, March 11, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Your letter of February 27, evidently addressed to the various district judges, has been forwarded to me in New York, where I am now holding court.

While I have, of course, heard that the trial of liquor cases has prevented the courts from disposing of their civil dockets in many districts and has thus impeded the due administration of justice in the Federal courts, I am very glad to report that this situation does not seem to exist in the southern district of Ohio. This is primarily due to the fact that we have caught up with our dockets on both the civil and the criminal sides of the court, and we are able to dispose of all criminal cases at the term at which the indictments are returned. We try but few cases both because of the exercise of discretion by the district attorney in indicting only those who are manifestly guilty and because a plea of not guilty does not result in delay but the trial proceeds forthwith.

The enforcement of liquor laws in Ohio is also greatly assisted by a reasonably efficient enforcement of the State law and discouragement by the court of prosecutions for petty offenses (the hip-pocket variety) or mere duplication of prosecutions originally conducted in the State courts. With these two classes of cases excluded, we are able to cope with the greatly increased work.

In other districts in which I have served, notably the middle district of Tennessee, I have found that the congestion of the criminal dockets has been so great as to discourage the court and prevent attention to civil matters. In such districts the adoption of some plan whereby the United States commissioner, or other officer, could assess a fine in the nature of a penalty in all possession and transportation cases would greatly assist the court in bringing its trial docket up to date.

Trusting that this is the information that you desire, I am,

Yours very truly,

SMITH HICKENLOOPER,
United States District Judge, Southern District of Ohio.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT,
Great Falls, Mont., March 6, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Answering your letter, at present writing I am not very much behind with cases on my docket, but at different times in the past the large number of liquor cases have unquestionably delayed consideration of other matters. I worked straight through the summer last year and am not much behind in civil cases submitted for decision, but otherwise would have been, as much time is required to dispose of heavy criminal calendars, consisting mostly of liquor cases. I have such a term on now, beginning with grand jury February 15 and continuing probably until April 15.

Very sincerely yours,

CHARLES N. PEAY.

UNITED STATES DISTRICT COURT,
EASTERN DISTRICT OF MISSOURI,
St. Louis, March 8, 1926.

Hon. KENNETH MCKELLAR,
Member United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Your letter of February 27 was found upon my return from a session of court away from home, hence the delay in this reply.

In this district, which includes the city of St. Louis, we have a great many liquor cases. Notwithstanding this fact, within the last year no case, civil or criminal, has been continued for want of time to try. Litigants in the Federal court are able to secure a trial of their case much sooner than they are in the trial courts of Missouri. So I would say that this court is not behind in the trial of its docket. This is the situation, notwithstanding the fact that the State courts in this city give us but little help in the enforcements of the liquor laws. The burden of this work has fallen very largely upon the Federal court in St. Louis. Outside of St. Louis this situation does not exist. In the northern division of the eastern district of Missouri the docket of liquor cases is insignificant. Usually it does not require more than 30 minutes of the court's time at any term. This is due to the fact that the State courts in the rural sections are enforcing the liquor statutes. It has been my duty to sit in other districts of this circuit. In Arkansas, Oklahoma, Iowa, and Utah my observation has been that outside of the congested centers of population the national prohibition law is not placing a tremendous burden on the Federal courts. It is also my view that the situation in this respect has greatly improved in the last year, and that outside of the large cities the State courts are more and more relieving the Federal courts of liquor cases.

If I can be of any further service in the matter, please call upon me.

Yours respectfully,

CHARLES B. DAVIS,
United States District Judge.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA,
San Francisco, Calif, March 4, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I am just in receipt of yours of February 27 inquiring whether or not it is a fact that liquor cases prevent the due administration of justice in the Federal courts. It is difficult to answer that question, so far as this district is concerned, with either an unqualified yes or no.

Of course, we have many hundreds of liquor cases every year, and to the extent that they take the time of the courts necessarily they interfere with other business. However, the judges of this district have not had a great deal of difficulty in finding the time to attend to the other business of the court. In civil cases at law, equity, bankruptcy, admiralty, and patents we are pretty well up to date, and the same is true of other criminal business, the bulk of which pertains to the traffic in narcotics.

The present prohibition director in this district has adopted the policy of having the smaller liquor cases attended to by the State judges and bringing only the larger matters, such as the conspiracy, importation, and still cases, into this court. Of course, that has relieved us of a very large number of the ordinary sale, possession, and nuisance cases.

To answer your question categorically, however, I do not consider that it is true that the due administration of justice is seriously interfered with. If you desire more detail, I shall be very glad to furnish it to you on request.

Yours very truly,

JOHN S. PARTRIDGE,
United States District Judge.

UNITED STATES DISTRICT COURT,
DISTRICT OF MINNESOTA,
St. Paul, Minn., March 6, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I have your letter of February 27 relative to the condition of the cases on our docket.

I am inclosing you copy of a letter which we wrote to the United States district attorney some time ago with reference to our situation, which explains it about as well as I am able to explain it.

It is our opinion that if we have to try in this court all of the violators of the national prohibition act who are apprehended in the cities of Minneapolis, St. Paul, and Duluth, as well as in the country districts, we shall have to go out of business as a civil court altogether and devote ourselves entirely to that work. If, on the other hand, we are required to deal only with the major violations of the law and with violations in certain sections of the State where the State authorities themselves are not in a position to handle them, we feel reasonably sure that we can keep up with our work. My belief is that the prohibition administrator of this State feels very much the same way as we do with respect to the class of cases that should be taken into the Federal court, but that the pressure upon him is so great that it is doubtful if he can avoid bringing them in here unless the Department of Justice will consent to permit the district attorney to turn some of the cases into the State courts.

I want you to thoroughly understand that there is no disposition on the part of any of the judges of this court to shirk any of their duties with respect to the transaction of business or to the punishment of violations of any of the national laws; but there is, of course, a limit to human endurance and to the amount of work which can be handled. Furthermore, a police court can not be successfully run which has general terms six months apart. A police court ought to be in continual session. In this State there are six divisions. There is a jury in each division only twice a year and that for a short period. The result is that most liquor law violators are held until the court is in session in that division and that results, where the prohibition agents have been active in that division, in a very considerable congestion of business.

If there is any further information that we can give you with reference to the situation, have no hesitation in calling upon us.

Sincerely yours,

JOHN B. SANBORN.

UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA,
St. Paul, Minn., January 27, 1926.

Hon. LAFAYETTE FRENCH, JR.,
United States District Attorney, St. Paul, Minn.

DEAR MR. FRENCH: The judges of this court have had under consideration the question of the disposition of cases involving violations of the national prohibition act. As you are aware, there has been a tremendous volume of these cases ever since the passage of that act, and during a part of the time, at least, for that reason, it has been impossible for this court to efficiently transact its other business. During the past year, with difficulty, we have been able not only to attend to the disposition of these cases but also to other cases which have been pending.

We realize that you are obliged to bring before the court all cases which are presented to you by those who have the enforcement of this act in charge, where the evidence indicates that violations have occurred, regardless of the seriousness or triviality of such violations. We have reached the conclusion that if this court is to dispose of all business which comes before it, it will be necessary to curtail somewhat the cases arising under the act.

This State has a prohibition law, the purpose of which is to make effective the provisions of the eighteenth amendment, and nearly every violation of the national prohibition act also constitutes a violation of the State prohibition law. It seems to us that minor violations, such as sales of liquor in small quantities in dwellings and apartment buildings, in tailor shops, grocery stores, confectionery stores, and soft-drink establishments, ought to be referred to the State authorities, particularly in communities such as the city of Minneapolis, the city of St. Paul, the city of Duluth, and the other cities of the State the courts in which are in practically continuous session from October until July, and all of which have officers whose duty it is to prosecute such offenses, and also have chiefs of police and peace officers. It will be possible for us, and, of course, it will be our duty, to dispose of all cases involving the more serious infractions of the law—such cases as arise from the transportation, the manufacture, and the importation and sale of liquor in substantial quantities—and to dispose also of cases which arise in communities where no adequate means are provided for their disposition otherwise.

If the work of the court could be limited to the trial and disposition of criminal cases alone, we think it might be possible for us to adequately handle all cases involving violations of the national prohibition act, but there is, as you know, much civil business of great importance before this court at all times, and it does not seem to us fair that the court should function as a criminal court alone, to the detriment of all civil business. Furthermore, we question the necessity and advisability of the Federal authorities, with their limited forces, attempting to police the large communities of this State, which have adequate police facilities, with respect to offenses which are just as much violations of the State law as they are of the national law.

We do not wish in any way to embarrass your office or the Federal Prohibition Department in respect to the work of punishing offenders against this law, but we think that in many respects the State machinery for handling the less serious offenses is better and less cumbersome than the Federal machinery, and we further feel that, in justice to other litigants, we must request that as many of these cases as can properly be handled in that way be brought before the State courts.

It is not necessary to call your attention to the fact that while the State courts in the cities of St. Paul, Minneapolis, and Duluth have petit juries for the trial of these cases, from October to July there are only two terms of Federal court in each city, which last from two to six weeks, which are available for the trial of criminal cases, and that during the rest of the time there are no juries. This is a situation which is taken advantage of by those who are brought before us, and the result is that at each term of court which we hold, we have the accumulations of six months to dispose of; and no way of remedying this situation can be devised, as our terms of court are fixed by Congress and we are not permitted to vary them.

We are not requesting you to violate your duty with respect to the filing of informations or the procuring of indictments for violations of the act in question, but it occurs to us that you might with propriety advise the Attorney General of the situation which exists here, and, possibly, with his assistance, might devise some method of reducing the number of cases brought in the Federal court. It has been our impression that his attitude was that the Federal courts should dispose of those cases which involve the more serious violations, and that the local authorities in those States which had enforcement acts should be required to assume the responsibility of policing their own communities.

Very truly yours,

WM. A. CANT.
JOSEPH W. MOLYNEAUX.
JOHN B. SANBORN.

UNITED STATES DISTRICT COURT,
DISTRICT OF WYOMING,
Cheyenne, Wyo., March 4, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In the absence of Judge Kennedy, which will extend into the first week in April, I have received your letter of February 27 asking information relating to cases upon the docket of this court. Upon the return of the judge I will at once call the matter to his attention. I am,

Very truly yours,

R. H. REPATH, *Secretary.*

UNITED STATES COURT,
Pittsburgh, March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Your letter of the 27th ultimo has just been received. It is rather difficult to give an exact and specific reply to your inquiry as to how far our court is behind in the cases on its docket. As to our civil cases, we have some 60 pending at the present time, but are as near up to date in the disposition of cases of this type as it is ever possible to be. We have also been able to keep reasonably abreast of the criminal cases up to the present time. By this I mean, not that we have disposed of all criminal cases, but have been able to take care of such as the United States Attorney has, thus far, been able to bring before us. It must be confessed, however, that we view the future with some alarm. We have kept up with our criminal work by means of extra terms devoted largely to national prohibition cases and by the adoption of a policy of fining, rather than imprisoning, first offenders in the absence of circumstances of special aggravation. This policy is not a desirable one from certain angles. For example, it leads those unacquainted with our system and our aims to the belief that violators of the prohibition act are being licensed by means of fines—certainly an undesirable situation from the standpoint of the judges, and the public as well. On the other hand, it has seemed the more desirable of the two horns of the dilema. It has induced numerous pleas and thus enabled us to keep abreast as well as we have. Prior to its adoption, defendants were nearly all demanding jury trials. This led to great congestion in the first place and consequent delay in trial and many acquittals, which would not have resulted had the case been promptly handled. As you know, the "turn over" among prohibition agents is exceedingly large, and if a case be delayed a year or two, very frequently all of the agents connected with it are out of the service. Often, such agents can not be found, or, when found, are hostile to the Government by reason of their dismissal.

More important is this policy, perhaps, as an enforcement measure, in that it creates a record against the defendant. You will recall that the prohibition act punishes subsequent offenses more heavily than the first. The former sentence pleaded in a subsequent indictment aids very materially in convictions and brings about heavier sentences, if violations of the act are continued.

At the present time the clerk's docket contains about 127 pending criminal cases, most of which disclose two or more defendants to the case. In addition to the defendants shown upon the docket, a large number of others have been held for trial by United States commissioners. These cases, numbering about 653, have not as yet reached the court. Some few of them will doubtless be dropped by the United States attorney. We have pending and ready for immediate hearing at the present time some 30 "padlock" injunction cases that are brought under section 22 of the prohibition act and have also a large number of similar cases on the docket. The recent increase in the number of such cases has given us some qualms, but we are not quite in despair as to our ability to work them off within a reasonable time.

From the foregoing it will be apparent to you that we have been able, up to the present time, to handle the business of our court with reasonable promptitude. The volume of prohibition cases has been great, and undoubtedly the existence of them has prevented the trial of other classes of cases as promptly as desired, in some instances. As yet, however, no very considerable complaint has been made by those affected.

I trust that the foregoing will give you the information desired. If you need anything further, I shall be glad to to furnish it, if within my power to do so.

With kind regards, I remain,

Sincerely yours,

R. W. GIBSON.

P. S.—Enclosed is copy of clerk's statement, prepared to enable me to answer your inquiry.

R. W. G.

IN THE DISTRICT COURT OF THE UNITED STATES,
FOR THE WESTERN DISTRICT OF PENNSYLVANIA,
March 3, 1926.

Hon. ROBERT M. GIBSON, *Judge:*

The following is submitted as an approximate statement of business transacted, fines collected, and cases undisposed of in this court since November 10, 1925:

Fines assessed and paid since Nov. 10, 1925	$94,465.99
Criminal information and indictments left over since November term	154
Criminal information and indictments begun since Nov. 10, 1925	495
Total	649
Criminal information and indictments disposed since Nov. 10, 1925	522
Criminal information and indictments remaining to be tried	127
Transcripts from United States commissioners (liquor only) filed or ready for filing and not yet converted into criminal informations or indictments	653
Prospective criminal cases	780
Civil cases left over from November term, 1925	21
Civil cases begun since Nov. 10, 1925	166
Total	187
Civil cases disposed of since November, 1925	95
Civil cases remaining to be tried	92
Criminal cases remaining	780
Civil cases remaining	92
Total unfinished business	872

Very respectfully,

J. WOOD CLARK, *Clerk.*
By B. D. GAMBLE, *Chief Deputy.*

UNITED STATES DISTRICT COURT,
DISTRICT OF DELAWARE,
Wilmington, March 3, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: I have your letter of February 27. The work of this court is at the present moment practically up with its docket. The March term opens on Tuesday next. Upon the calendar there are, in addition to the civil causes, 58 criminal cases, of which 47 involve the violation of the Volstead Act. I am, of course, not now advised as to the probable pleas or other disposition of these entered in all of them or in the greater portion of them and a jury trial be required, it would, of course, require many days to clear the docket.

While in the past there have been some delays in this district in civil causes by reason of the number of cases involving the Volstead Act, yet such delays have not been serious. This has been due to the smallness of this district and to the fact that the State authorities have been very active in prosecutions for liquor violations.

I have, from time to time, been assigned to sit in the other districts in this circuit and my experience in those districts has led me to believe that the condition which prevails here does not exist there and that those districts are greatly hampered by criminal cases. I think I should also add that if the number of criminal cases cognizable in the district courts should increase, that it would probably turn out that those lawyers whose experience and ability are such as to enable them to cope properly with the civil causes over which the Federal courts have jurisdiction, would not be inclined to accept the office by reason of the amount of criminal work involved.

I shall be glad to give you frankly any other information or render to you any other service in connection with this matter that you may desire.

Yours very truly,

HUGH. M. MORRIS.

UNITED STATES COURT CHAMBER, SOUTHERN DISTRICT,
Charleston, W. Va., March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Your letter relative to the business of the Federal court received.

This district has 24 counties in the southern part of West Virginia, and has a population of about 900,000. There is very great coal development therein, and some manufacturing. It borders on Ohio, Kentucky, and Virginia, and, of course, the northern district of West Virginia.

In the four years and a half that I have occupied this bench I have had before me about 8,000 persons charged with crime, of which about 80 per cent were for liquor violations. The cases now run from 1,500 to 2,000 per year. There is splendid cooperation between the district attorney's office, the marshal's office, and the prohibition officers, and most of the State and county officers. There is reasonable cooperation between the State judges and myself.

I have a rather close acquaintance with all the State judges in my district and with most of the prosecuting attorneys. To a certain extent I do some administrative work by conferring with them and discussing cases, and by a certain amount of correspondence with them relative to cases.

There is very little liquor made in this district. Detroit runs a good deal here, and some comes from Cincinnati, and quite a bit from the Blue Ridge Mountain section of Virginia, and considerable from the border counties in Kentucky.

It keeps a judge very busy looking after the business of his district. He has no time for anything else, and only by deliberately going away from my office do I snatch a short vacation. I am not like the splendid judge from the eastern district of Kentucky, Judge Cochran, who told me a short time ago that he had never taken a vacation in the 24 years that he had been upon the bench.

I have been able at each term of my court to try every criminal case that was for trial and every civil case that the parties wanted tried in my four and a half years. I have been able to keep up with the bankrupt business that comes to me, but I have fallen somewhat behind on some difficult chancery cases. One very difficult added branch to Federal jurisdiction of late years was the appeals from public service commissions and the Interstate Commerce Commission. A rate case, with a bushel or two of papers that have to be studied, is harder on the judge than all the criminal cases he hears in a year.

The Congress has undoubtedly added much jurisdiction by the narcotic cases, the automobile theft cases, and the interstate commerce theft cases, and the Mann Act. In the coal regions, among the foreign population in particular, there are always some counterfeiting cases, where the money is either made or more usually circulated. There is a continual run of post-office cases, divided into the following classes:

First. Thefts or embezzlements by postmasters or employees.

Second. Burglaries of post offices.

Third. And the most difficult, the using of the mails for purposes of defrauding.

This last list of cases is a growing one, and the post-office inspectors give a great deal of time to it, and it seems to be necessary for the protection of the public. There are so many fraudulent organizations for the purpose of selling stock or other securities that rob the poor public. I have had a great many difficult cases of this character, and there are more of them that ought to be investigated.

While the liquor cases show up the greatest in number, yet I have very few jury trials. In this fiscal year I will have probably 1,800 or 2,000 cases before me, and I doubt whether I will have more than 25 jury trials. I recently had 250 cases before me in Bluefield and had only 2 jury trials, 1 of which was for a liquor case, and 1 for the Mann Act.

The Congress saw fit last March to pass the probation act. To me this was the greatest advance that Congress has made in dealing with criminals. However, I find that General Lord only put into the Budget $75,000 for the whole United States to hire probation officers. This is simply nonsense, and deliberately throttles the execution of the act.

I have put on probation in this district since the act was passed at least 700 persons. Of these 50 per cent are going good. It costs the United States at least a dollar a day to keep a person in jail. Of these 700 at least 400 would be in jail but for this probation act. I feel that I am saving the Government $400 a day thereby. That is the money side of it.

The other side is that these 400 people are at least doing something to support themselves and their families. Otherwise in many instances these families would be charges on the counties for their support.

If this error has not already been rectified in the Department of Justice appropriation bill, I appeal to you as a Senator to do what you can to get a proper appropriation, so that I can have at least one probation officer to give full time to his duties. That is the great work that I now have on me trying to keep up with these probationers myself, with one secretary, and I can not do it, in justice to my other duties, under the law. I should have a probation officer, with at least $300 a month and something for expenses. Supervision of this under probation is absolutely necessary, which I personally, as you readily see, can not give it. Regeneration of fallen human beings is the greatest thing in the world, and I am willing to enter into it to the best of my ability, and do try to keep in touch with these people; but I need this officer, and I need him quickly. If a proper appropriation is not made and a proper amount allotted to my district to hire such an officer, I will simply be compelled to refuse to put any other persons on probation. I had hoped that the proper appropriation would be given for this in the deficiency bill, but it seems not to be there. I have taken this matter up with Senator WARREN and Representative MADDEN and my two good friends the Senators from West Virginia. If you feel any interest in this matter, I would be glad if you would talk with the West Virginia Senators as to what I say, and I refer you to them as to my reliability in making statements.

While I am writing this letter, I have just been interrupted to be informed that two persons in jail are sick. It takes my time, to a certain extent, to have these cases investigated by as reliable a person as I can get, and if they are really ill, then I take the responsibility of turning them out, and you can readily see that this takes time and attention. If I had a good probation officer, who would organize each county with a local probation officer, it would cost not

more per month than I am saving the Government per day, and it would be a great thing for me and my district and for my people.

I talked this matter over with the Attorney General in January, and he promised to see General Lord, but I do not know what has been done.

Knowing, as I do, how busy you are and of the great attention you give to your duties—because of reading the CONGRESSIONAL RECORD more or less—I am taking the opportunity of imposing upon you to give some attention to this, because no doubt it affects your State as much as it does West Virginia.

I am glad to make full and complete statements at any time in reference to my work, and I appreciate your interest in general with the subject matter.

With best wishes and kindest personal regards, I am,

Yours very truly,

GEO. W. MCCLINTIC,
District Judge.

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF MISSOURI,
Kansas City, March 2, 1926.

Hon. KENNETH MCKELLER,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Answering your letter of the 27th ultimo regarding the status of our docket, I beg to advise that this district has five divisions, namely, Kansas City, St. Joseph, Jefferson City, Joplin, and Springfield. In all of the divisions, except Kansas City, the dockets are cleared twice each year upon an average of about one week at each point. In Kansas City, however, both our civil and criminal dockets are so heavy that it requires the constant attention of both the judges. At the present time we have at issue many law and equity cases on the civil side and a considerable accumulation of criminal cases. Our civil docket has become much heavier within the last few years.

As to the liquor cases, these have necessarily increased since the enactment of the Volstead law. However, such cases consume comparatively little of the judges' time. It is rare that such cases are contested as practically all defendants in such cases plead guilty. Under such circumstances it requires but a short time to receive a statement of the facts and to impose appropriate penalties.

Violations of the postal and narcotic laws, the Dyer and Mann Acts, and thefts from interstate shipments have all increased within the last few years.

The reports as to the time consumed in disposing of liquor cases are greatly exaggerated. With two judges in this district, litigants experience little delay in the adjustment of their controversies.

I trust this may give you the information desired.

Very truly yours,

ALBERT L. REEVES, *District Judge.*

UNITED STATES DISTRICT JUDGE'S CHAMBERS,
EASTERN DISTRICT OF ARKANSAS,
Little Rock, Ark., March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In reply to your letter I would state that the docket of the courts in my district is not behind in the least. Every case ready for trial is disposed of at the first term to which it is returnable.

By reference to the reports of the Attorney General, you will find that there were disposed of in my courts for the year ending June 30, 1924, 816 criminal cases and 115 civil cases; for the year ending June 30, 1925, 931 criminal cases and 176 civil cases. This is exclusive of bankruptcy cases.

I found sufficient time to sit half of two terms of the circuit court of appeals during 1924, and half of one term of the Circuit Court of Appeals, and two months in the district court in New York City in 1925.

It is true that in large cities there is a great deal more of violations of the prohibition law, and as many of those engaged in it are men of large means, they litigate their cases more strenuously than they do in districts such as mine. My experience is, that in many districts the district attorneys do not dispose of these criminal cases as expeditiously as they should, and when judges only sit four hours a day, they can not do as much work as if they would sit six hours, as I do.

I find that there is fully as much time of the court taken up in the prosecution of violations of the postal laws, especially using the mails to defraud, as in prohibition cases. Those engaged in these postal frauds do not seem to be well enough organized to advocate the repeal of those laws.

Sincerely yours,

JACOB TRIEBER,
United States District Judge.

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF NEW YORK,
Buffalo, March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In answer to your letter of February 27, inquiring to what extent liquor cases prevent the due administration of justice in the Federal courts, I can only speak of the administration in this district. There are about 1,500 liquor cases pending, and from time to time defendants in large numbers come into court and enter a plea of guilty or not guilty. Besides this number, the district attorney informs me there are approximately 600 cases pending before the United States commissioners upon which information will soon be filed which will bring these cases into this court. In addition thereto there are quite a large number of other criminal cases—just how many I am unable to say—arising from other violations or including violations akin to the prohibition laws, such as smuggling ale or whisky from Canada, and sometimes cases charging bribery or attempts to bribe agents and policemen to prevent arrest and prosecution. Since the prohibition law has been enacted it has been necessary to devote at least three weeks, and sometimes four, at the beginning of each regular term of court to dispose of criminal cases which gives very little time to trials of civil cases.

In this district there are five terms of court in different localities, and it happens, not infrequently, that one term continues until another commences. The liquor cases certainly operate to delay trial of civil causes, for many more negligence cases are now brought in the Federal courts arising from the Federal employers' liability act than formerly, and lawyers for plaintiffs are keen to try their cases as soon as possible. Then there are patent and admiralty cases which must now be tried in open court. For example, I gave the greater part of the month of February to the trial of admiralty causes, and patent trials are heard at various times during the year and when it is possible to give the time.

It is not only the matter of arraignments in liquor cases that takes time, for often motions are made to quash search warrants for illegal searches and seizures, and motions for the return of cars or vehicles improperly seized. These matters, in the main, come up each week on regular motion day and are often continued to other days for one reason or another. This delays other trials and decisions.

To assist in relieving the congestion due to liquor violations and violations of the narcotic act, we have two or three special terms a year with jury, and judges from Vermont, New Hampshire, and once or twice from New York City have been good enough to hold the criminal part here at Buffalo, while I conducted trials at Buffalo or in other parts of the district.

The increase of the business due to the liquor and narcotic laws is such that another judge is needed to dispose of the civil business and criminal trials expeditiously. Such a bill is now pending in the House.

It is not only jury trials which concern us, but there must be time to decide the equity and admiralty case after the evidence is taken, for, as you know, these trials are without a jury, the record being usually large, and opinion being written by the court in rendering decisions.

I hope this will give you a fair insight into conditions here; and also the extent to which these delays exist.

With great respect, I am

Very truly yours,

JOHN R. HAZEL.

UNITED STATES COURT,
Pittsburgh, March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Your letter of the 27th ultimo duly received. Am having the clerk prepare some data for me and will reply to your inquiry as soon as I receive it; that is, within a day or two.

Very sincerely yours,

R. M. GIBSON.

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF VIRGINIA,
Lynchburg, Va., March 2, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SIR: Answer to your letter of the 27th ultimo has been delayed by my absence at court.

In so far as the trial of jury cases is concerned, it is hardly accurate to say that my court is behind its docket, and yet, my work is behind, and considerably so. The jury cases are given a preference, and the chamber work in consequence is delayed. I have now in chambers waiting for me about 25 cases, and before I can complete these, there will be about that many more waiting. Work as hard as

I may, and it is a fact that I do work most diligently, I can not keep abreast of the work.

So far as actual jury trials in criminal cases are concerned, there are not a great many more of the prohibition cases in this district than there were revenue cases before the prohibition law was enacted. However, in other directions the prohibition act has considerably increased the work of the court. It would be, however, utterly impossible for me to state, with any accuracy, how much the work of the court has been increased by the prohibition act.

Yours truly,

HENRY C. MCDOWELL.

UNITED STATES COURT CHAMBERS,
Memphis, Tenn., February 27, 1926.

Senator KENNETH MCKELLAR,
Senate Chamber, Washington, D. C.

MY DEAR SENATOR: I am in receipt of your letter of February 25.

The District Court for the Western District of Tennessee is not behind on its calendar at all. There are two more cases to be tried on the civil docket and these will be tried next week. This will clean up every case on our calendar until the next term. We got through the criminal docket in 10 days. It is true that there was a long list of criminal cases, mostly violations of the national prohibition act.

I know nothing, of course, about conditions in other districts, but I find I have no trouble in keeping the criminal cases from clogging the court by setting aside a certain time each week to accept submissions and pleas of guilty. This reduces the calendar when the regular term opens.

The essential weakness of the Volstead Act lies in the fact that a fine in the Federal court means practically nothing. Most of the violators of the prohibition act are very poor people. A substantial fine merely means that the accused goes to jail for 30 days. He can not be made to work, and the net result is that he gets a 30-day rest cure in the nice, clean, sanitary Shelby County jail. He gets better quarters, a better bed, more sanitary surroundings, and better food than he ever had before in his life, and nothing to do.

A fine in the State court is a serious affair, as it either has to be paid in money or else it is worked out on the roads at 40 cents a day. A fine in the Federal court, in 90 per cent of the cases, unless the fine is made very small, merely means a 30-day vacation at the cost of the United States Government.

I am not much in favor of making compulsory imprisonment in first-offense liquor cases, but I do believe if the system of fines in the United States courts could be approximated to the State practice—that is to say, if the prisoner could be made to work his fine out on some Government public work at, say, a dollar a day, the Volstead Act would have all the teeth it needs. Our law imposing fines up to $1,000 in liquor-law violation cases reads very well on paper, but, for the reasons stated above, amounts to practically nothing. If the fine could be worked out on the plan I suggested, a $150 fine would be a very severe punishment for the first offense under the national prohibition act.

Another bad feature of the imprisonment penalty, under the national prohibition act, is that the prisoner spends his sentence in absolute idleness. That is to say, if it is a first offense, and he receives a jail sentence, to put an active, able-bodied man in jail for six months with absolutely nothing to do makes a confirmed loafer out of him for life. The law should be made so as to make Federal prisoners serving jail sentences for misdemeanors do a reasonable amount of work for the benefit of the public.

I do not think these prisoners should be put in competition with honest laboring people, but I do think they should be put to work on the highways, especially now that the Federal Government is giving aid to the States in the construction of national highways. If some of our bootleggers had to get out and break rock for three or four months in building roads, it would be very good for them, very good for the public, and, I think, would deter them from going back into the liquor business. A few months' idleness in a well-conducted, sanitary jail has very little terror for a bootlegger who is making money in his nefarious profession.

Pray pardon me for getting away from the subject you wrote me about, but I feel very strongly on the matters concerning which I have written you.

Yours very sincerely,

H. B. ANDERSON.

UNITED STATES COURT CHAMBERS,
WESTERN DISTRICT OF MICHIGAN,
Grand Rapids, Mich., March 9, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Replying to your letter of February 27, I am pleased to inform you that, although cases arising under the national prohibition act have been numerous and have entailed much additional work, the business of the District Court for the Western District of Michigan is and for many years last past has been up to date. Whatever the conditions may be elsewhere, there have been no delays in the administration of justice in this district.

Very sincerely yours,

C. W. SESSIONS, *District Judge.*

UNITED STATES DISTRICT COURT,
Knoxville, Tenn., March 8, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Replying to yours of February 26, I was appointed in March, 1923, and have, of course, presided over the court in the eastern district of Tennessee since that time. On June 30, 1923, there were 542 criminal cases pending in this district. During the fiscal year from June 30, 1923, to June 30, 1924, there were commenced 716 criminal cases. During that same period there were terminated 725, leaving pending on June 30, 1924, 533. During the fiscal year from June 30, 1924, to June 30, 1925, there were commenced in this district 1,190 cases and terminated during the same period 1,392, leaving pending, June 30, 1925, 331. These figures are taken from the reports of the attorney general for these years, and indicate that while the number of criminal cases has steadily increased, yet we have steadily decreased the number of pending cases, to wit, from 542 on June 30, 1923, to 331 on June 30, 1925.

I am assuming that about 90 per cent of these cases are prohibition cases. I have been able so far to keep fairly well abreast with the law and equity side of the calendar. There has been no material delay in the hearing of equity and law cases, except in this matter, that is to say, that in the hearing of law cases, where they are heard without a jury, and in equity cases, I am compelled to take these under advisement, and the press of jury trials has somewhat delayed a determination of such cases. However, I have striven to determine these cases within the term at which they were tried. You, of course, have in mind that our terms run for six months. I have so far succeeded in this way in handling the cases, with one or two exceptions, where the records were large and the questions difficult.

To keep up with what I consider to be fairly well abreast of my calendar I am compelled, however, to hold court continuously, the court being in session practically all the time. I have heard no serious complaint of delay in this district. You will recall that I am also a judge in the middle district; but Judge Gore, as an additional judge for that district, is better acquainted with the situation there than I can be, and I have no doubt will be pleased to give you any information which you may desire.

Yours sincerely,

C. M. HICKS,
United States District Judge.

UNITED STATES DISTRICT JUDGE,
Baltimore, Md., March 4, 1926.

Senator KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: In answer to your recent inquiry, I beg to state that so far as I can estimate the United States court for Maryland is about a year and a half behind in the cases on the docket. The figures, which are made up to the fiscal year ending June 30 last, show that the court was then at least a year behind, and I am convinced that at least six months' additional arrears have accumulated in the meantime. For the four years from 1922 to 1925 the average number of cases terminated per year was 1,473, while the number of cases commenced in Maryland in the year ending June 30, 1925, was 2,846. The liquor cases are responsible for this condition to a considerable extent. The number of criminal prosecutions instituted in this court for the year ending June 30, 1925, was 1,742, of which classification the far greater number constitute liquor cases. (See p. 176 of the report of the Attorney General of 1925.) Of course, a very large number of the liquor cases result in pleas of guilty or take a comparatively short time to try. While I can not make the statement with complete accuracy, I am fairly certain that in the district of Maryland at least one-half the time of one judge could be continuously employed in the trial of liquor cases.

You will find on page 138 of the report of the Attorney General for 1925 a classification of the cases, civil and criminal, to which the United States was a party. This shows that a total of 8,039 civil cases were commenced in the year 1925, of which 7,271 were under the national prohibition act, and that in the same year, 58,128 criminal cases were begun, of which 50,473 were brought under the national prohibition act.

There is now pending in Congress before the Judiciary Committee of the House a bill to authorize the appointment of 10 additional district judges, 1 of which would be appointed for the district of Maryland. At present there is but 1 district judge in Maryland.

Very sincerely yours,

MORRIS A. SOPER,
United States District Judge.

UNITED STATES DISTRICT JUDGE'S CHAMBERS,
NORTHERN DISTRICT OF ALABAMA,
New Orleans, La., March 3, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I have your favor of February 27. There are seven places of holding court in the northern district of Alabama at each of which court is held twice a year. All criminal cases are reached for trial within six months after the arrest of the defendant and are tried within that time unless one of the parties has a legal ground for continuance. This is true of all the divisions in the district. I think it is a safe estimate that 90 per cent of all criminal cases are actually tried at the first trial term after the arrest of the defendant and within not more than six months of that time. This is also true of civil cases. There is no accumulation of either criminal or civil cases in my district.

Very sincerely,

W. I. GRUBB, *District Judge.*

CLAIMS OF ASSINIBOINE INDIANS

Mr. WILLIS. Mr. President, I have no intention of prolonging this discussion at this late hour and I am not going to do so. I desire to call up another matter. I observe, however, that the Senator from Montana [Mr. WHEELER] is on his feet.

Mr. WHEELER. I am not going to speak. I desire to call up a matter that will take just a second; that is all.

Mr. WILLIS. I yield for that purpose. I desire to call up a bill on the calendar.

Mr. WHEELER. That is exactly what I was going to do.

Mr. WILLIS. All right; let the Senator break the ice.

Mr. WHEELER. Mr. President, I ask unanimous consent to call up for consideration Order of Business 350 and Order of Business 351, being Senate bills 2141 and 2868, and I will ask for their separate consideration.

Mr. KING. Those are bills that passed the Senate at the last session. They are all right.

Mr. WHEELER. Similar bills passed the Senate last year and were killed in the House. They are jurisdictional bills for the Indians.

The PRESIDING OFFICER. The Secretary will state the title of the first bill referred to by the Senator from Montana.

The LEGISLATIVE CLERK. A bill (S. 2141) conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of this bill?

Mr. JONES of Washington. Mr. President, does the bill authorize the Court of Claims to enter judgment?

Mr. WHEELER. No. It does finally, if there is a final suit, the same as in any other case in the Court of Claims; that is all.

Mr. JONES of Washington. I know that we adopted the policy some years ago—I think in the last Congress—of referring these matters down to the Court of Claims to get the facts and report back to Congress; but in many cases I know we cut out the provision authorizing the court to enter judgment.

Mr. WHEELER. This is in the regular form. It provides that the Court of Claims shall have full authority by proper orders and process to bring in and make parties to such suit any other tribe or band of Indians deemed by it necessary or proper to the final determination of the matters in controversy, and so forth.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. JONES of Washington. I will withhold objection for a moment, while the Senator examines the bill.

Mr. WILLIS. Mr. President, I ask that it be passed over temporarily, without prejudice, while the Senators are examining the matter.

The PRESIDING OFFICER. Without objection, the bill will be passed over temporarily, without prejudice.

OLDROYD COLLECTION OF LINCOLN RELICS

Mr. WILLIS. Mr. President, I ask unanimous consent to take up at this time Order of Business 235, being Senate bill 957. This bill is in the exact form in which it passed the Senate in the last Congress.

Mr. GEORGE. What is the character of the bill?

Mr. WILLIS. The purpose of the bill is to authorize the Secretary of State, the Secretary of War, and the Attorney General, as a commission, to negotiate for the procurement of what is known as the Oldroyd collection of Lincoln relics.

The Senator knows of the collection of relics in the old building across the street from the Ford Theater. It is a very wonderful collection, the greatest in the world; and, as I have said, the Senate passed the bill in the last session after rather full discussion. At that time the Senator from North Carolina [Mr. OVERMAN] suggested some amendments to the bill, and those amendments were incorporated, and the bill was passed.

I have conferred with the Senator—I regret that he is not in his seat at the moment—and he has told me that he has no objection to the bill. I have talked with a number of Senators, and I know of no objection to it in any quarter.

Mr. JONES of Washington. Is the report of the committee a unanimous one?

Mr. WILLIS. Yes, sir; so far as I know.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. WILLIS. I do.

Mr. KING. I do not object to the consideration of the bill; but I was about to ask, in view of the uncertainty as to the amount to be paid, if it will not be regarded as certain that $50,000 will be paid if we fix that as the maximum?

Mr. WILLIS. I do not think so; but does the Senator suggest an amendment?

Mr. KING. No; I was just wondering about that phase of the matter.

Mr. WILLIS. I will state the reason why that figure was suggested. It is a long story, and an interesting one, if the Senator would like to hear it.

Mr. KING. No; only briefly.

Mr. WILLIS. This old gentleman has spent his life since the time of the Civil War in making this collection. Mr. Ford, I am told, has made an offer of $50,000 for the collection of relics. Likewise, the State of Illinois, at the last session of its general assembly, made an appropriation and appointed a commission to negotiate for the purchase of the relics. Colonel Oldroyd has a patriotic pride in desiring that this collection shall be kept here in the Capital City, where it can be seen by the thousands of tourists who come here. I think he is quite right in that. This bill simply authorizes the Secretary of State and the Secretary of War and the Attorney General to negotiate for the purchase of the collection.

Mr. KING. May I ask the Senator where it is expected that these relics will be deposited after they are purchased by the Federal Government?

Mr. WILLIS. That is a very proper question, and I will state my own feeling about it, though, of course, we are going far afield now.

The building in which the relics now are is not a fireproof building. It is a building of wonderful historic interest and, of course, always ought to be preserved. I have talked with a number of persons who are interested in the matter, and it is their belief that the collection ought to be transferred to some other place, where it can be better protected. However, I am frank to say to the Senator that my feeling is that there is a great deal of argument in favor of keeping this collection, if it shall become the property of the United States, in that building. In that house is the room in which Abraham Lincoln died. I should dislike to see those relics taken away from that room and from that house.

Mr. KING. This means then, of course, that if we pass this bill, further appropriations will be required either to purchase the building——

Mr. WILLIS. That is already the property of the United States. The only question is as to whether it is the proper place in which to keep the relics. My own feeling is, if the Senator is interested in it, that I would rather run the risk of having this collection in a building that is not fireproof than to destroy the sentiment by moving the relics away. I think they ought to remain in that building.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Secretary of State, the Secretary of War, and the Attorney General are hereby designated as a commission with authority, in their discretion, to purchase the Oldroyd collection of Lincoln relics, and that the sum of $50,000, or so much thereof as may be necessary, is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to enable the commission to consummate such purchase.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE PROHIBITION LAW

Mr. GEORGE. I ask unanimous consent to have printed in the RECORD an article by Rev. Sam W. Small, a newspaper correspondent in Washington, and a distinguished citizen of my State, which appeared in the Atlanta Constitution of recent date, entitled "Does the South violate the fourteenth and fifteenth amendments?"

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Is there objection to the request of the Senator from Georgia?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Atlanta Constitution, February 21, 1926]

DOES THE SOUTH VIOLATE THE FOURTEENTH AND FIFTEENTH AMENDMENTS?

By Sam W. Small

WASHINGTON, February 20.—"Are the fourteenth and fifteenth amendments of the Constitution ignored, nullified, and commonly violated in the Southern States?"

The charge that they are so treated has been made for years by newspapers, public speakers, and Congressmen of the Eastern and Northern States and now is openly made by Governor Ritchie, of the border State of Maryland.

Having obtained so distinguished an indorser the charge should now receive more than the contemptuous treatment heretofore accorded it by the publicists and people of the South.

THE FOURTEENTH AMENDMENT

Those who charge that the fourteenth amendment is not observed and enforced in Southern States have particular reference only to these words contained in the amendment, to wit:

"But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male members of such State, being of 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State."

They claim that the negro citizens of the Southern States are generally denied the right to vote in the elections described in the amendment and the penalty prescribed should be applied to such States.

It will be noted that "the Congress shall have power to enforce by appropriate legislation the provisions of this article."

Professor Burdick in his The Law of the American Constitution says "the provision contained in this (second) section of the amendment for the reduction of representation in Congress has never been put into effect."

Why not?

Because the Supreme Court of the United States, in deciding in 1883 that the "civil rights" act (passed by Congress in the belief that it was authorized by the fourteenth amendment) was unconstitutional, pointed out that "It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject of the amendment." The court said the authority of Congress is "to provide modes of redress against the operation of State laws, and the action of State officers, executive or judicial" (109 U. S. 3, 11). Even earlier (100 U. S. 313, 318) the court had held that "Congress, by virtue of the fifth section of the fourteenth amendment, may enforce the prohibitions whenever they are disregarded by either the legislative, the executive, or the judicial departments of the States."

THE FIFTEENTH AMENDMENT

The fifteenth amendment was adopted by the States to give constitutional guaranty to the newly made citizens that their right to suffrage should be the same as that belonging to their white fellow citizens—just that and no more. Their right was not to be "denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude," and the enforcement of the amendment was given to the Congress and remains with that body.

Professor Burdick, tracking the decisions of the Supreme Court of the United States, says of the amendment:

"It is directed only against the abridgment of that right on account of race, color, or previous condition of servitude. Therefore congressional legislation which makes it a crime for a State officer to refuse to allow persons to vote without clearly restricting the application of the statute to cases where the refusal is on account of race, color, or previous condition of servitude is unconstitutional." (United States v. Reese, 1875, 92 U. S. 214.)

"Again," he says, "the amendment is not directed against action by individuals, but against action by the States or the United States. So an attempt by Federal legislation to punish private persons who conspire to prevent negroes from voting is not within the power granted by the amendment." (James v. Bowman, 1903, 190 U. S. 127.)

ONLY STATES CAN VIOLATE

Thus it appears that since both the fourteenth and fifteenth amendments are made applicable to State actions, and not those of individuals, only a State can be chargeable with nullifying or violating either of them.

James G. Blaine, in his Twenty Years of Congress (vol. 2, p. 419), says of those amendments:

"The contentions which have arisen between political parties as to the rights of negro suffrage in the Southern States would scarcely be cognizable judicially under either the fourteenth or fifteenth amendment to the Constitution. Both of those amendments operate as inhibitions upon the power of the State, and do not have reference to those irregular acts of the people which find no authorization in the public statutes. The defect in both amendments, in so far as their main object of securing rights to the colored race is involved, lies in the fact that they do not operate directly upon the people, and therefore Congress is not endowed with the pertinent and applicable power to give redress."

GRANDFATHER CLAUSES

The Supreme Court has uniformly held that the amendments do not conflict with the right of a State to require, as a qualification for voting, a literacy test, or a religious test, or a property test, or indeed any test which is not a discrimination on account of race, color, or previous condition of servitude.

Many Northern as well as Southern States have such literacy, property, and poll tax requisitions. But in order not to disfranchise many illiterate white citizens some Southern States, either by constitution or statute, excepted from the literacy test any "person who was on January 1, 1886, or any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation," and "any lineal descendant of such person"—all which terms excluded persons of color—and these acts were commonly known as "grandfather clauses." Naturally they caused bitter complaints by the negroes and their special friends in the North.

Some peculiar justifications were urged for those enactments. It was shown that the constitution of Illinois (1870) specially enfranchised every person "who was an elector in this State on the 1st day of April, in the year of our Lord, one thousand eight hundred and forty-eight"—which was 22 years theretofore.

It was also pointed out that President Grant, in 1875, in his annual message to Congress, recommended that education should be made compulsory "so far as to deprive all persons who can not read and write from becoming voters after the year 1890, disfranchising none, however, on grounds of illiteracy who may be voters at the time this amendment takes effect."

But the whole subject became obsolete with the decisions of the Supreme Court in 1915 (238 U. S. 347, 368) that all such "grandfather clauses" are unconstitutional under the fifteenth amendment.

DOES THE SOUTH NULLIFY?

The renewed agitation accusing the South of nullifying the negro amendments has arisen from the discussion of the widespread violations of the eighteenth, or prohibition, amendment.

Referring to the fifteenth amendment one accuser, in the Washington Post, says: "I wonder why this amendment is so bad that it can not be enforced by the Government and several millions of dollars appropriated and a flock of agents and spies appointed to enforce this law?"

Another, in the New York World, says: "The southern democracy has opposed and nullified the fourteenth and fifteenth amendments for 50 years with impunity."

Yet another, in the New York Evening Sun, demands to know if the prohibitionists "would be willing to advocate a preliminary appropriation of $8,000,000 by Congress to send an army of worthy northern black Republicans down South to enforce the thirteenth, fourteenth, and fifteenth amendments to the Constitution and the bloody shirt laws?"

While a notable Washingtonian writes to The Nation periodical that "the flagrant disregard of the fourteenth and fifteenth amendments to the Constitution is a precedent for the lamentable disregard of the eighteenth amendment."

All of which statements recall the well-known aphorism of Josh Billings that "it is better not to know so many things than to know so many that ain't so!"

WHAT GOVERNORS SAY

In January, 1924, the writer of this article addressed a letter to the governor of each of the Southern States asking for official answers to the following questions, to wit:

1. Is there in the statutes of your State any law intended or that operates to violate either the fourteenth or fifteenth amendment?

2. Is there any discrimination in the constitution or laws of your State against negroes, as to suffrage, "on account of race, color, or previous condition of servitude?"

3. Are the nonvoting negroes in your State disfranchised by law, or are they self-disfranchised by failure to comply with the laws of the State?

Governor Brandon, of Alabama, replied in the negative to the first and second questions, and as to third, said:

"The nonvoting negroes in Alabama are disfranchised merely because they fail to qualify by registering or because they fail to comply with the laws of the State, which are applicable to the whites as well as to the negroes. The constitution as well as the statutes of this State prescribe the qualifications and disqualifications of the voter, but there is no discrimination on account of race, color, or previous condition of servitude. Both the constitution and the statutes provide reasonably adequate modes of testing the validity of any of the election laws in Alabama by review in all the State and Federal courts."

Governor McRae, of Arkansas, formerly a Member of the Congress, wrote as follows:

"I am not aware of the existence of any State statute here that would conflict with the fourteenth and fifteenth amendments to the Federal Constitution. There is no State law in Arkansas the wording of which would indicate discrimination against negroes as such. Negroes vote in our general elections, both State and national. It is true that not many of them assert the right, but they can do it."

Gov. John M. Parker, of Louisiana, answered "no" to the first and second queries, and as to the third said:

"They disfranchise themselves by failure of being able to comply with the laws pertaining to suffrage."

He urged the "exposing of the falsity of prevailing propaganda that the fourteenth and fifteenth amendments are openly violated in every Southern State."

Governor Whitfield, of Mississippi, emphatically negatived the first and second queries, and to the third replied:

"The nonvoting negroes in Mississippi are not disfranchised by law, but rather by failure to comply with the laws of the State, which require that those offering to vote must read and write and understand the constitutions, both State and Federal, and have lawful residence and qualifications."

Gov. Austin Peay, of Tennessee, wrote:

"In reply I will say that no statute of the character referred to exists in Tennessee. We have no restriction on suffrage, except payment of poll tax 60 days before election. No attempt is made in this State to prevent our negroes from voting, and they vote, I should say, in as high ratio of population as the whites."

Governor Fields, of Kentucky, a former Congressman for many terms, answered "no" to the first two questions and confirmed the fact that the only disfranchisement of negroes in Kentucky is self-imposed.

Governor Hardee, of Florida, answered the queries specifically to the same effect as the other executives above quoted.

Gov. Clifford Walker, of Georgia, denied that the State has any laws violating the mentioned amendments, or that discriminate against the negroes in the matter of suffrage. "If they will comply with the laws of the State the same as I have to do they can vote as readily and safely as I can," adds this chief magistrate of Georgia.

Governor Trinkle, of Virginia, Governor Morrison, of North Carolina, Governor McLeod, of South Carolina, and Gov. Pat Neff, of Texas, all answered in practically the same terms and all of them challenged the production of any valid evidence that the fourteenth and fifteenth amendments are nullified and nonobserved in their States.

ARE THEY LIES?

Unless those persons who are so loudly proclaiming that the southern people are "openly and flagrantly violating the fourteenth and fifteenth amendments" can produce proofs that will convict all these State governors as "forgers of lies" and unworthy of public credit, the fact becomes incontestable that the charge against the South is either ignorantly or maliciously false.

Since only a State by its officials can violate the amendments in question, and only the State can be penalized by reduction of its representation, no sanction can be found in the Southern States for violations and nullifications of a police amendment that applies to every individual as does the eighteenth amendment.

In conclusion, it would be well for those who are accusing the southern people of flouting the "war amendments" to read and consider the statement by the Supreme Court in the famous Slaughter House cases (16 Wall. 36) that:

"We doubt very much whether any action of a State, not directed by way of discrimination against the negroes, as a class, will ever be held to come within the purview of this provision"—the penal clause of the fourteenth amendment.

Then let them compare the suffrage restrictions in Maine, Vermont, Massachusetts, and New York with those in any Southern State for further illumination.

CLAIMS OF ASSINIBOINE INDIANS

Mr. WHEELER. I renew my request that the Senate proceed to consider Senate bill 2141, conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes.

Mr. JONES of Washington. The bill was reported unanimously by the committee?

Mr. WHEELER. It was. It was passed at the last session.

Mr. JONES of Washington. Passed in this form?

Mr. WHEELER. In this form.

Mr. JONES of Washington. Under those circumstances, I make no objection.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indians Affairs with amendments, on page 2, line 16, after the word "against," to insert "the United States, it being the intent of this act to confer upon the"; in section 3, page 3, line 23, after the word "any," to insert "Executive order"; in line 25, after the word "Indians," to strike out "if legally chargeable against that claim" and insert "including gratuities"; in section 4, page 4, line 3, after the word "any," to insert "Executive order"; and, in section 8, on page 5, line 21, after the name "United States," to insert a colon and the following proviso: "*Provided*, That actual costs necessary to be incurred by the Assiniboine Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Assiniboine Tribe in the Treasury of the United States," so as to make the bill read:

Be it enacted, etc., That all claims of whatsoever nature which the Assiniboine Indian Nation or Tribe may have against the United States, which have not heretofore been determined by a court of competent jurisdiction, may be submitted to the Court of Claims for determination of the amount, if any, due said Indians from the United States under any treaty or agreement or law of Congress, or for the misappropriation of any of the property or funds of said Indians, or for the failure of the United States to administer the same in conformity with any treaty or agreement with the said Indians: *Provided*, That if in any claim submitted hereunder a treaty or an agreement with the Indians be involved, and it be shown that the same has been amended or superseded by an act or acts of Congress, the court shall have authority to determine whether such act or acts have violated any property right of the claimants, and, if so, to render judgment for the damages resulting therefrom; and jurisdiction is hereby conferred upon said Court of Claims, with the right to appeal to the Supreme Court of the United States by either party, to hear and determine all legal and equitable claims of whatsoever nature which said Indians may have against the United States, it being the intent of this act to confer upon the said Court of Claims full and complete authority to adjust and determine all claims submitted hereunder so that the rights, legal and equitable, both of the United States and of said Indians may be fully considered and determined and to render judgment thereon accordingly.

SEC. 2. Any and all claims against the United States within the purview of this act shall be forever barred unless suit be instituted or petition filed as herein provided in the Court of Claims within five years from the date of approval of this act, and such suit shall make the Assiniboine Nation or Tribe party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the Assiniboines approved by the Commissioner of Indian Affairs and the Secretary of the Interior; and said contract shall be executed in their behalf by a committee chosen by them under the direction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior. Official letters, papers, documents, and records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said Indian nation to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys of said Indian nation.

SEC. 3. That if any claim or claims be submitted to said court it shall determine the rights of the parties thereto, notwithstanding lapse of time or statutes of limitation, and any payment which may have been made by the United States upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a set-off in any suit; and the United States shall be allowed credit subsequent to the date of any Executive order, law, treaty, or agreement under which the claims arise for any sum or sums heretofore paid or expended for the benefit of said Indians, including gratuities.

SEC. 4. That if it be determined by the court that the United States, in violation of the terms and provisions of any Executive order, law, treaty, or agreement, has unlawfully appropriated or disposed of any money or other property belonging to the Indians, damages therefor shall be confined to the value of the money or other property at the time of such appropriation or disposal, together with interest thereon at 5 per cent per annum from the date thereof; and with reference to all claims which may be the subject matter of the suits herein authorized, the decree of the court shall be in full settlement of all damages, if any, committed by the Government of the United States and shall

annul and cancel all claim, right, and title of the said Assiniboine Indians in and to such money or other property.

SEC. 5. That upon the final determination of any suit instituted under this act the Court of Claims shall decree such amount or amounts as it may find reasonable to be paid the attorney or attorneys so employed by said Indian nation for the services and expenses of said attorneys rendered or incurred subsequent to the date of approval of this act: *Provided*, That in no case shall the aggregate amounts decreed by said Court of Claims for fees be in excess of the amount or amounts stipulated in the contract of employment, or in excess of a sum equal to 10 per cent of the amount of recovery against the United States.

SEC. 6. The Court of Claims shall have full authority by proper orders and process to bring in and make parties to such suit any other tribe or band of Indians deemed by it necessary or proper to the final determination of the matters in controversy.

SEC. 7. A copy of the petition shall, in such case, be served upon the Attorney General of the United States, and he, or some attorney from the Department of Justice to be designated by him, is hereby directed to appear and defend the interests of the United States in such case.

SEC. 8. The proceeds of all amounts, if any, recovered for said Indians shall be deposited in the Treasury of the United States to the credit of the Indians decreed by said court to be entitled thereto, and shall draw interest at the rate of 5 per cent per annum from the date of the judgment or decree. The costs incurred in any suit hereunder shall be taxed against the losing party; if against the United States such costs shall be included in the amount of the judgment or decree, and if against said Indians shall be paid by the Secretary of the Treasury out of the funds standing to their credit in the Treasury of the United States: *Provided*, That actual costs necessary to be incurred by the Assiniboine Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Assiniboine Tribe in the Treasury of the United States.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CLAIMS OF CROW INDIANS

Mr. WHEELER. I now ask that the Senate proceed to the consideration of Senate bill 2868, conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Crow Indians may have against the United States, and for other purposes.

Mr. JONES of Washington. A similar bill was passed before?

Mr. WHEELER. It was.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with amendments, on page 1, line 3, after the word "nature," to insert "including what is known as the River Crow claim"; in line 5, after the word "tribe," to insert "or any branch thereof"; on page 2, line 5, after the word "Indians," to insert "or any Executive order"; on page 2, line 7, after the word "Indians," to insert "or any Executive order"; in line 16, after the word "Indians," to insert "or the River Crow Indians"; in line 17, after the word "against," to insert "the United States, it being the intent of this act to confer upon"; in section 2, on page 3, line 7, after the word "the," to strike out "Crows" and insert "Crow Tribe of Indians"; on the same page, in line 15, after the word "said," insert "Crow"; in section 4, on page 4, line 7, before the word "agreement," to strike out "or"; in the same line, after the word "agreement," to insert "or Executive order"; in line 9, after the word "Indians," to insert "or obtained lands from the Crow Indians for an inadequate consideration under mistake of fact"; and in section 8, on page 6, line 2, after the name "United States," to insert a colon and the following proviso: "*Provided*, That actual costs necessary to be incurred by the Crow Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Crow Tribe in the Treasury of the United States," so as to make the bill read:

Be it enacted, etc., That all claims of whatsoever nature including what is known as the River Crow claim, which the Crow Indian Nation or Tribe or any branch thereof may have against the United States which have not heretofore been determined by a court of competent jurisdiction may be submitted to the Court of Claims for determination of the amount, if any, due said Indians from the United States under any treaty or agreement or law of Congress, or for the misappropriation of any of the property or funds of said Indians, or for the failure of the United States to administer the same in conformity with any treaty or agreement with the said Indians or any Executive order: *Provided*, That if in any claim submitted hereunder a treaty or an agreement with the Indians or any Executive order be involved, and it be shown that the same has been amended or superseded by an act or acts of Congress, the court shall have authority to determine whether such act or acts have violated any property right of the claimants and, if so, to render judgment for the damages resulting therefrom; and jurisdiction is hereby conferred upon said Court of Claims, with the right to appeal to the Supreme Court of the United States by either party, to hear and determine all legal and equitable claims of whatsoever nature which said Indians or the River Crow Indians may have against the United States, it being the intent of this act to confer upon said Court of Claims full and complete authority to adjust and determine all claims submitted hereunder, so that the rights, legal and equitable, both of the United States and of said Indians, may be fully considered and determined, and to render judgment thereon accordingly.

SEC. 2. Any and all claims against the United States within the purview of this act shall be forever barred unless suit be instituted or petition filed as herein provided in the Court of Claims within five years from the date of approval of this act, and such suit shall make the Crow Nation or Tribe party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the Crow Tribe of Indians, approved by the Commissioner of Indian Affairs and the Secretary of the Interior; and said contract shall be executed in their behalf by a committee chosen by them under the direction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior. Official letters, papers, documents, and records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said Crow Indian Nation to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys of said Indian nation.

SEC. 3. That if any claim or claims be submitted to said court it shall determine the rights of the parties thereto, notwithstanding lapse of time or statutes of limitation, and any payment which may have been made by the United States upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a set-off in any suit; and the United States shall be allowed credit subsequent to the date of any law, treaty, or agreement under which the claims arise for any sum or sums heretofore paid or expended for the benefit of said Indians, if legally chargeable against that claim.

SEC. 4. That if it be determined by the court that the United States, in violation of the terms and provisions of any law, treaty, agreement, or Executive order, has unlawfully appropriated or disposed of any money or other property belonging to the Indians, or obtained lands from the Crow Indians for an inadequate consideration under mistake of fact, damages therefor shall be confined to the value of the money or other property at the time of such appropriation or disposal, together with interest thereon at 5 per centum per annum from the date thereof; and with reference to all claims which may be the subject matter of the suits herein authorized, the decree of the court shall be in full settlement of all damages, if any, committed by the Government of the United States and shall annul and cancel all claim, right, and title of the said Crow Indians in and to such money or other property.

SEC. 5. That upon the final determination of any suit instituted under this act the Court of Claims shall decree such amount or amounts as it may find reasonable to be paid the attorney or attorneys so employed by said Indian nation for the services and expenses of said attorneys rendered or incurred subsequent to the date of approval of this act: *Provided*, That in no case shall the aggregate amounts decreed by said Court of Claims for fees be in excess of the amount or amounts stipulated in the contract of employment, or in excess of a sum equal to 10 per cent of the amount of recovery against the United States.

SEC. 6. The Court of Claims shall have full authority by proper orders and process to bring in and make parties to such suit any other tribe or band of Indians deemed by it necessary or proper to the final determination of the matters in controversy.

SEC. 7. A copy of the petition shall in such case be served upon the Attorney General of the United States, and he, or some attorney from the Department of Justice to be designated by him, is hereby directed to appear and defend the interests of the United States in such case.

SEC. 8. The proceeds of all amounts, if any, recovered for said Indians shall be deposited in the Treasury of the United States to the credit of the Indians decreed by said court to be entitled thereto and shall draw interest at the rate of 5 per cent per annum from the date of the judgment or decree. The costs incurred in any suit hereunder shall be taxed against the losing party; if against the United States, such costs shall be included in the amount of the judgment or decree and, if against said Indians, shall be paid by the Secretary of the Treasury out of the funds standing to their credit in the Treasury of

the United States: *Provided*, That actual costs necessary to be incurred by the Crow Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Crow Tribe in the Treasury of the United States.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and render judgment in claims which the Crow Tribe of Indians may have against the United States, and for other purposes."

THE PROHIBITION LAW

Mr. BRUCE. Mr. President, I give notice that at the conclusion of the routine morning business on Monday next I shall make a brief reply to the Senator from Tennessee [Mr. MCKELLAR].

LONG-AND-SHORT-HAUL CLAUSE OF INTERSTATE COMMERCE ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 575) to amend section 4 of the interstate commerce act.

Mr. GOFF. Mr. President, I would like to take just a few minutes of the time of the Senate while the measure relating to the long-and-short-haul clause is pending. I desire to make a few observations concerning a matter that is vital to my State, and of deep interest to the people of the Northwest. I wish to clarify a situation, if possible, that has arisen as a result of misrepresentation and a conscious distortion of the facts.

In the Daily Metal Trade, published at Cleveland, Ohio, the issue of March 5, is an article which recites that—

> the soft-coal authorities of Cleveland are meeting to-day in Pittsburgh with operators from that district in planning their combined attack before the Interstate Commerce Commission.
>
> This will be the third attempt since 1920—

says the Daily Metal Trade—

> on the part of Ohio and Pennsylvania operators to bring about this greatly sought restoration of the old-time coal-rate parities.

I would refrain from consuming the time of the Senate with the presentation of the article were this an isolated instance of misrepresentation of existing conditions. But it is not. Ohio and Pennsylvania newspapers have frequently declared that a preferential rate has been given to southern West Virginia and eastern Kentucky in the shipment of coal to ports on the Great Lakes. So frequent has been this misrepresentation that there are many people in Ohio and Pennsylvania today who are convinced that the freight rate from southern West Virginia to the Great Lakes is lower than the rate from the Pittsburgh district.

This erroneous conclusion has gained currency as the result of a campaign of misleading propaganda initiated by the affected districts following the decision of the Interstate Commerce Commission, rendered July 26, 1925, in what has become known as the Lake Cargo case (I. C. C. Docket 15007). This campaign of misrepresentation has been continued uninterruptedly and reached its climax following the filing of a petition by the Pittsburgh Coal Operators' Association on December 30 last for reargument of the Lake Cargo case.

I have an abundant faith in the Interstate Commerce Commission as an agency of the Government. It is quasi-judicial in character and is a constitutionally created instrumentality for the adjudication of such problems as have arisen in the Lake Cargo case. Because of my faith in the capability and integrity of the commission I refrained, while the application for rehearing was pending, from a discussion of the Lake Cargo rates, even while misleading information was being circulated. The conditions involved became only recently a subject of discussion on the floor of the Senate. My profound respect and unlimited confidence and exalted admiration of the Supreme Court of the United States would preclude my discussion of a cause pending in that tribunal for decision, and the respect that I entertain for the Interstate Commerce Commission compels a similar observance of the proprieties.

The decision of the Interstate Commerce Commission in the Lake Cargo case was rendered last July after an extended hearing and a comprehensive investigation that had lasted for two years. The commission considered every angle, in fact, every phase of the controversy. It gave thorough and painstaking consideration to the legal principles involved and the evidence presented. It held that the rates on the shipments of coal from West Virginia and Kentucky were not unduly preferential, and it declined to grant the petition of the Northeastern Ohio and Pittsburgh district operators to increase the differential against West Virginia and Kentucky.

On March 3 last the Interstate Commerce Commission acted favorably on the petition of the Pittsburgh district to reopen the case and in an order then issued gave the litigants in interest 20 days in which to show cause whether additional evidence should be presented.

I take it that the commission desired to have for its consideration any new evidence that protestants or intervenors may have discovered. There is no inclination on my part to discuss this phase of the question. I only desire to express the wish that a final decision will be forthcoming at an early date for the reason that prolonged delay means a heavy burden of additional expense on an industry that is prostrate and will as a result of delayed orders materially affect the markets of the Northwest for this basic product. I have no doubt that the commission will consider the vital interests of the coal consumers in the great Northwest, as well as the interests of the producers in the competing districts. I feel that the commission in good time will render its decision in agreement with the law and the evidence and that it will not be swerved from the path of duty by political influence, threats, criticism in public place, or by the repetition of published misinformation.

In justice, however, to the coal industry of my State, upon which a large measure of our population is dependent. I must refute the recurring reports so frequently published that West Virginia and eastern Kentucky possess preferential rates on the shipment of coal to the lake ports and that such rates are responsible for the suspension of mines in Ohio and Pennsylvania.

"It is a campaign to restore the old-time differentials to rates which now operate to favor mines south of the Ohio River," says the Cleveland newspaper.

It is not, let me say, a campaign to restore the old-time differentials between the competing districts. It is a campaign to give additional advantages in freight rates to the Pittsburgh and Cambridge districts over West Virginia and eastern Kentucky.

Pittsburgh now has an advantage in freight rates ranging from 25 cents to 40 cents on every ton of coal shipped from southern West Virginia or eastern Kentucky to the lake ports. The petition of the Pittsburgh operators is to increase that advantage, to spread that differential from 25 to 40 cents to 68 and 83 cents.

That is precisely what the Pittsburgh district has asked and continues to ask the Interstate Commerce Commission to do. To comply with that request, of course, would have but one result. It would mean the exclusion of West Virginia coal, the exclusion of coal from Virginia, Tennessee, and Kentucky, from the markets of the Northwest. And it would leave the coal consumers of Michigan, Wisconsin, Minnesota, North and South Dakota at the mercy of the Pittsburgh and Cambridge producer. Competition would be destroyed, and consumers in that vast territory would be compelled to buy Pittsburgh coal at whatever prices Pittsburgh would care to exact. And in this connection I am informed that the consumers of the Northwest, including public service commissions representing three States, vigorously opposed in the former hearings any increase in existing differentials. The consumers in that great domain demand competition.

Let me reiterate that Pittsburgh now has an advantage of from 25 to 40 cents on every ton of coal shipped to the lake ports over southern West Virginia and eastern Kentucky. The records of the Interstate Commerce Commission will verify this assertion. This being true, I ask if it is reasonable to assume that the lower freight rates enjoyed by Pittsburgh and northeastern Ohio are responsible for closing the mines in these districts? That is precisely what was charged by the Senator from Pennsylvania on the floor of the Senate.

West Virginia has always been obliged to pay a freight rate in excess of Pittsburgh and northeastern Ohio on lake coal shipments. There has never been a time when Pittsburgh and northeastern Ohio did not have an advantage in coal rates over West Virginia to the lake ports.

In proof of this statement I ask leave to insert in the RECORD a statement which shows the freight rates from the southern West Virginia coal fields as compared with the Pittsburgh and northeastern Ohio coal fields to the Lakes since 1903.

The PRESIDING OFFICER. Without objection, permission is granted.

The statement is as follows:

Lake cargo rates per net ton with differentials in favor of Pittsburgh at different periods since 1902

Year	Pittsburgh district	No. 8 Ohio district	Kanawha-Thacker districts
1903-1907	$0.83	$0.80	$0.92
1907-1912	.88	.85	.97
1912-1917	.78	.75	.97
1917	.93	.90	1.18
1918-19	1.30	1.27	1.55
1920 (Aug. 26)	1.86	1.83	2.11
1921 (May 4)	1.58	1.55	1.83
1921 (Nov. 1)	1.86	1.83	2.11
1922 (July 1)	1.66	1.63	1.91
1923	1.66	1.63	1.91
Present	1.66	1.63	1.91

	Pocahontas-New River districts	Pittsburgh differential over Kanawha and Thacker	Pittsburgh differential over Pocahontas
1903-1907	$1.07	$0.09	$0.24
1907-1912	1.12	.09	.24
1912-1917	1.12	.19	.34
1917	1.33	.25	.40
1918-19	1.70	.25	.40
1920 (Aug. 26)	2.26	.25	.40
1921 (May 4)	1.98	.25	.40
1921 (Nov. 1)	2.26	.25	.40
1922 (July 1)	2.06	.25	.40
1923	2.06	.25	.40
Present	2.06	.25	.40

Mr. GOFF. The Pennsylvania and Ohio interests have by their propaganda attempted to create the impression that the recent proceedings before the Interstate Commerce Commission were designed to restore freight relationships that at one time existed.

The statement that I have filed clearly refutes this impression. The statement shows that prior to 1912 the southern West Virginia district had rates ranging from 9 to 24 cents per ton in excess of rates in the Pittsburgh district; that from 1912 to 1917 the southern West Virginia fields had rates from 19 to 34 cents over the Pittsburgh district; and that from 1917 to date the southern West Virginia districts have been obliged to pay from 25 to 40 cents over the Pittsburgh district on lake coal shipments.

On a highly competitive commodity like coal a difference of 25 and 40 cents per ton in favor of one coal district as against another is a substantial difference of great advantage in the sale of coal; in fact, the difference is greater than the profit that the operator can frequently obtain per ton on his coal.

The Pennsylvania fields complain that they have lost tonnage to the Lakes in recent years. Evidence in the Lake Cargo case shows that during the last year of record in that case, 1923, the Pittsburgh and northeastern Ohio districts shipped two-thirds of all the coal that went to the Lakes, and that the southern West Virginia and eastern Kentucky fields have shipped about one-third. The Pennsylvania interests claim that during the years 1924 and 1925 the coal shipments to the Lakes have substantially increased from West Virginia and have decreased from the Pennsylvania fields. I am informed that this is true; but I now assert that the increase of coal shipments from West Virginia to the Lakes in face of the disadvantage in freight rates under which it operates of from 25 to 40 cents on each ton has not been caused by freight rates.

It is a matter of common knowledge that the policies which have prevailed among the coal operators in Pennsylvania with respect to wage and other mining conditions have caused the decrease in the tonnage from those fields. In the Coal Trade Bulletin of July 6, 1925, there appears an article prepared by C. E. Lesher, assistant to the president of the Pittsburg Coal Co., which states that—

> The trouble is that the coal producers in the Pittsburgh district are handicapped by a wage scale so high that it shuts them off from near-by as well as distant markets.

In the same bulletin of June 1, 1925, there appear extracts from a speech by Mr. T. M. Dodson, vice president of the Pittsburg Coal Co., to the same effect. The coal-trade journals have been full of similar admissions by coal operators in the Pennsylvania fields. In short, the freight rates about which we have heard so much have not been the cause of the late deplorable strike or the closing of the mines or the decrease in the tonnage in the Pittsburgh district in 1924 and 1925.

It is apparent that the Pennsylvania and Ohio interests are seeking to persuade the Interstate Commerce Commission to exercise its great powers to equalize the different mining and other conditions that exist in the different competing coal districts by means of freight rates. The interstate commerce laws were never designed to be exercised in any such manner.

My sole purpose, Mr. President, in submitting these remarks has been to refute the misinformation that has been scattered to arouse protests against the decision of the Interstate Commerce Commission. I am content to present the facts, without criticism or defense. They speak too strongly to justify interpretation or permit construction. The country is entitled to know them, and the Senate, I feel, will welcome a statement that reflects conditions as they are and not as some would have them.

ADJOURNMENT

Mr. JONES of Washington. I move that the Senate adjourn.

The motion was agreed to; and the Senate (at 6 o'clock and 5 minutes p. m.) adjourned until Monday, March 15, 1926, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

SATURDAY, *March 13, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, blessed be Thy holy name. Thou art infinite love, hence we do not fear nor tremble in Thy presence. While all about us are the tokens of Thy power, yet Thou hast overlaid them with divine gentility. O make us strong with the sense of Thy strength, make us wise with the sense of Thy wisdom, and make us better with the sense of Thy goodness. Bless all institutions which nurture and care for humanity. United may they be in faith, hope, and charity. Enable us always to be in sympathy with men, their duties, and their needs. Amen.

The Journal of the proceedings of yesterday was read and approved.

PERMISSION TO ADDRESS THE HOUSE ON FRIDAY, MARCH 19

Mr. SHALLENBERGER. Mr. Speaker, on the 19th of March is the anniversary of the birthday of a great American citizen. I want to ask unanimous consent that on next Friday, the 19th of this month, after the reading of the Journal, that one hour's time may be granted so that myself, the majority leader [Mr. TILSON], the minority leader [Mr. GARRETT], and other Members may be permitted to address the House in honor of the memory of William Jennings Bryan.

The SPEAKER. The gentleman from Nebraska asks unanimous consent that on next Friday, after the reading of the Journal and disposition of matters on the Speaker's table, that one hour be granted to various Members of the House to deliver eulogies on the memory of William Jennings Bryan. Is there objection?

Mr. MADDEN. Mr. Speaker, will it interfere with the consideration of appropriations bills on the calendar at that time?

The SPEAKER. It will supersede anything except conference reports and——

Mr. MADDEN. I do not think I want to object, but I think we want to expedite the public business and not let anything intervene.

Mr. SHALLENBERGER. Mr. Speaker, if I may be permitted, I will say it is well known that Mr. Bryan was at one time a distinguished Member of this body; that on the 19th of the month a great movement will be inaugurated throughout the United States to raise funds for building a proper monument for him in this city, and it was in recognition of that movement that I have made this request.

Mr. MADDEN. Nobody has more respect for the genius of Mr. Bryan than I have, and I am not going to object, but I simply wanted to call attention to the possibility of its disturbing public business. If it is to be a nation-wide movement, it might as well start here as anywhere else.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ORDER OF BUSINESS

Mr. GARNER of Texas. Mr. Speaker, will the gentleman from Connecticut, the majority leader, ask permission of the House for time in which to take us into his confidence and

tell us whether the arrangements for legislation made at the White House, as reported in the papers of yesterday, are correct or not? I think the gentleman ought to be as good to us as he is to the newspapers. I think the gentleman ought to take us into his confidence, because we have to help carry out the program. Will not the gentleman take us into his confidence and tell us all about it?

Mr. MADDEN. Will the gentleman yield for one question?

Mr. GARNER of Texas. I would rather yield to the man who knows all about it.

Mr. MADDEN. Of course the gentleman is going to tell the gentleman about it, but I wanted to ask a question. I was wondering whether the gentleman had gotten to the point where he could not see well enough to read the newspapers?

Mr. GARNER of Texas. I read the newspapers. I also see newspapers one day reporting the spokesman of the President as having said so-and-so, and the next day say he does not say so-and-so, and I want to find out if the newspaper report was true or not. Now I will ask the gentleman whether it is true or not?

Mr. MADDEN. I know the gentleman is very thorough in all his investigations, and he will ascertain, I am sure.

Mr. GARNER of Texas. I will if the gentleman from Illinois does not interrupt him too much. I am trying to get that information.

The SPEAKER. There is no request before the House.

Mr. GARNER of Texas. I ask unanimous consent that the gentleman from Connecticut have five minutes in which to enlighten the House.

The SPEAKER. The gentleman from Texas asks unanimous consent that the gentleman from Connecticut be permitted to address the House for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. TILSON. It will not take more than a fifth of that time for me——

Mr. GARNER of Texas. I do not expect the gentleman has much information that might——

Mr. TILSON. The first question I should like to ask the gentleman is whether he is entirely willing to join in helping carry out any "program" or arrangements that have been made?

Mr. GARNER of Texas. Whatever is for the benefit of the country I am sure will have my hearty support.

Mr. TILSON. Nothing else will be proposed, I am sure.

Mr. GARNER of Texas. I wonder if this statement in the Star as to the five provisions outlined, as having been agreed upon as a program of legislation by the gentleman from Connecticut, the Senator from Ohio, and the President of the United States, is correct.

Mr. TILSON. I did not read it myself.

Mr. GARNER of Texas. I will read it to you.

Mr. TILSON. I shall give the gentleman a plain answer in regard to any part of it that concerns me.

Mr. GARNER of Texas. I will give it to you. First:

No. 1. The general public building bill, authorizing $165,000,000 to cover a period of five years. Of this amount $50,000,000 will be spent for the erection of governmental buildings in the District of Columbia at the rate of $10,000,000 a year for five years.

Is that correct?

Mr. TILSON. That bill has been passed by the House already.

Mr. GARNER of Texas. I ask the gentleman if that is part of the program that he intends to finish up before adjournment? The gentleman must remember that it has not yet become a law.

Mr. TILSON. We have done all that we can do for the present in regard to it.

Mr. GARNER of Texas. Does the gentleman and his associates propose to stay here until they have passed that bill?

Mr. TILSON. We can not pass upon that question until we see what happens to the bill elsewhere.

Mr. GARNER of Texas (reading)—

No. 2. The Watson-Parker railroad bill, which abolishes the Railroad Labor Board.

Does the gentleman expect to pass that?

Mr. TILSON. I hope so.

Mr. GARNER of Texas (reading)—

No. 3. The approval of the terms for the settlement of the Italian war debt and others pending—

and—

No. 4. Coal legislation that will embody the President's recommendation for a commission.

Mr. TILSON. The foreign-debt settlements should be approved. As to coal legislation, that is a matter that is being considered by the Committee on Interstate and Foreign Commerce.

Mr. GARNER of Texas. Was that considered by the gentleman and the President and the Senator from Ohio?

Mr. TILSON. It was not mentioned in my presence.

Mr. GARNER of Texas (reading)—

Muscle Shoals, some agreement for the disposal of this property.

Was that considered by the gentleman and the President and the Senator from Ohio? Was that referred to?

Mr. TILSON. Only incidentally, if at all, in my presence. Perhaps reference was made to the fact that it was passed.

Mr. GARNER of Texas. Just what was agreed upon?

Mr. TILSON. There was no agreement or arrangement whatsoever, except as to one thing. I submitted to the President on yesterday a suggestion that I thought was in behalf of an early adjournment. I felt that our common desire in that direction might be facilitated by the consideration of the impeachment case—if there is to be an impeachment case—at a special session of the Senate instead of both House and Senate being kept in session during the trial of the case before the Senate. The President was in accord with the suggestion.

Mr. GARNER of Texas. Then the only thing that the gentleman and the President and the Senator from Ohio agreed upon—with which I am in hearty accord—was an early adjournment? I will promise the gentleman that we will cooperate in every possible way to bring about that event.

Mr. TILSON. Then the gentleman is in entire accord with the "program" agreed upon yesterday?

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. TILSON. Yes.

Mr. HOWARD. I notice that the tentative agreement does not contain anything about agriculture.

Mr. TILSON. Has the gentleman something of his own to propose?

Mr. HOWARD. Oh, yes; indeed.

Mr. TILSON. What the gentleman has to propose will always have the respectful consideration of the House.

Mr. HOWARD. I know; but I am going to get some one who can get a larger hearing than I, and I am going to follow him.

Mr. KETCHAM. Mr. Speaker, will the gentleman yield?

Mr. TILSON. Yes.

Mr. KETCHAM. Will the gentleman from Nebraska tell us what bill he has introduced in behalf of farmer legislation?

Mr. HOWARD. Oh, certainly; I have not introduced any bill. I have a friend from Iowa whose name is DICKINSON, who has introduced the best thing that I know. I do not like it all the way through, but it is the best thing that I know, and I am one unheard Democrat who is going to support it at every turn in the road.

Mr. KETCHAM. The gentleman will be interested in knowing that hearings are going forward very rapidly on that very subject.

Mr. HOWARD. I know that hearings are going on.

Mr. KINCHELOE. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. Yes.

Mr. KINCHELOE. I want to say to the gentleman—perhaps it will be consoling to him—that so far as the Dickinson bill is concerned the President of the United States and the Secretary of Agriculture are against it. It calls for an appropriation of $250,000,000, which has not the consent of the Budget, and the gentleman will be here a long time before the Dickinson bill is considered under the circumstances.

Mr. HOWARD. Does the gentleman speak from authority, or do I understand that he speaks outside of authority?

Mr. KINCHELOE. It developed in the hearings that Mr. Jardine was against the bill; and unless the President has changed his mind from the opinion he expressed in his message, he is also opposed to it.

Mr. TILSON. Mr. Speaker, has not my time expired? [Laughter.]

The SPEAKER. The time of the gentleman from Connecticut has expired.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 60. An act for the purpose of reclaiming certain lands in Indian and private ownership within and immediately adja-

cent to the Lummi Indian Reservation, in the State of Washington, and for other purposes;

H. R. 5043. An act granting the consent of Congress to the Midland & Atlantic Bridge Corporation, a corporation, to construct, maintain, and operate a bridge across the Big Sandy River between the city of Catlettsburg, Ky., and a point opposite in the city of Kenova, in the State of West Virginia; and

H. J. Res. 197. Joint resolution to regulate the expenditure of the appropriation for Government participation in the National Sesquicentennial Exposition.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 1430) to establish a board of public welfare in and for the District of Columbia, to determine its functions, and for other purposes.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the amendment of the Senate to the bill (H. R. 6374) to authorize the employment of consulting engineers on plans and specifications of the Coolidge Dam.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 2673) to amend the act approved June 3, 1896, entitled "An act to establish and provide for the maintenance of a free public library and reading room in the District of Columbia."

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. HARRY I. THAYER, late a Representative from the State of Massachusetts.

Resolved, That a committee of six Senators be appointed by the President of the Senate to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That, as a further mark of respect to the memory of the deceased, the Senate do now take a recess until 12 o'clock, noon, to-morrow.

Pursuant to the provisions of the foregoing resolutions, the Vice President had appointed Mr. BUTLER, Mr. GILLETT, Mr. MOSES, Mr. HARRISON, Mr. ASHURST, and Mr. BROUSSARD as the committee on the part of the Senate to attend the funeral of the deceased.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the amendments of the Senate Nos. 1 and 4 to the concurrent resolution (H. Con. Res. 4) providing for a joint committee to conduct negotiations for leasing Muscle Shoals.

The message also announced that, pursuant to the provisions of House Concurrent Resolution No. 4 providing for the appointment of a joint committee to conduct negotiations for leasing Muscle Shoals, the Vice President had appointed Mr. DENEEN, Mr. SACKETT, and Mr. HEFLIN members of said committee on the part of the Senate.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

A message in writing from the President of the United States, by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed bills of the following titles:

On March 10, 1926:

H. R. 6733. An act granting the consent of Congress to the construction of a bridge across the Rio Grande.

On March 11, 1926:

H. R. 7173. An act authorizing the Secretary of the Interior to dispose of certain allotted land in Boundary County, Idaho, and to purchase a compact tract of land to allot in small tracts to the Kootenai Indians as herein provided, and for other purposes; and

H. R. 9109. An act to extend the time for the construction of a bridge across the White River.

On March 12, 1926:

H. R. 7019. An act to provide four condemned 12-pounder bronze guns for the Grant Memorial Bridge at Point Pleasant, Ohio.

INVESTIGATION OF LAND GRANTS OF THE NORTHERN PACIFIC RAILWAY CO.

The SPEAKER. Pursuant to the act of June 5, 1924, the Chair appoints Mr. WINTER, of Wyoming, and Mr. HILL, of Washington, as members of the joint congressional committee created to investigate the land grants of the Northern Pacific Railway Co., in place of Mr. WILLIAMS, of Michigan, and Mr. RAKER, of California, deceased.

CORRECTION OF THE RECORD

Mr. CELLER. Mr. Speaker, I desire to correct the RECORD. The RECORD of March 12, 1926, reports me as stating—

I wish to state to the gentleman that I was charged by the American Telegraph & Telephone Co. $10 for every minute I would desire to use the radio during the last election, and I know of no charge that was made to any one of my opponents in my district for the same use of the radio.

What I did say was the following:

I wish to state to the gentleman that I was asked to pay by the American Telegraph & Telephone Co. $10 for every minute I desired to use the radio during the last election, and I refused to pay it. I have no knowledge that candidates of the opposing party were asked to pay the same amount for the same use.

Mr. FREE. Mr. Speaker, will the gentleman yield?

Mr. CELLER. Yes.

Mr. FREE. Is it not a fact that you had the free use of the radio on January 14, 1924, from the American Telegraph & Telephone Co. on the subject of selective immigration, and is it not also true that on October 15, 1925, you again had the free use of the radio in discussing the subject of the functions of Congress, and then you tried to make political speeches and they referred you to the Democratic Congressional Committee. As a matter of fact, you never paid a cent to the American Telegraph & Telephone Co. for the privilege of broadcasting.

Mr. CELLER. I have had the use of broadcasting from the WEAF and the WJZ. I was accorded the free use of the radio just before last election, but only after I threatened the American Telegraph & Telephone Co. to make public what they had proposed to charge me for the use of the radio facilities, at the rate of $10 per minute.

Mr. FREE. Is it not a fact that the gentleman made that speech on January 19, 1924, and did not make his threat until July 22, 1924?

Mr. CELLER. I am referring to the speech I made over the radio just prior to the election. The threat had reference to the request I made just prior to election.

Mr. McKEOWN. Mr. Speaker, I make a point of order. What has this to do with the correction of the RECORD?

The SPEAKER. This is proceeding by unanimous consent.

Mr. FREE. The gentleman did speak, then, on January 19, 1924, for nothing; afterwards the gentleman made another request and then made a threat to them in a letter?

Mr. CELLER. At present I do not recall a letter. There may have been a letter. On one of those occasions I was invited to speak without a request made by myself to any of the radio broadcasting stations.

Mr. FREE. And the gentleman has never been charged anything?

Mr. CELLER. I state now, and I want the remarks I made yesterday corrected to that extent, that I never paid one cent to any radio broadcasting station, because I refused to do so. Further, I had no knowledge that any one of the opposing party was asked to pay what I was asked to pay. The right to charge is unquestioned. The possibility of that right being abused is inherently dangerous. The right must be properly regulated.

The SPEAKER. Without objection, the RECORD will be corrected as suggested by the gentleman from New York.

RADIO COMMUNICATION

Mr. SCOTT. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of H. R. 9971, a bill for the regulation of radio communications, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of H. R. 9971, with Mr. MADDEN in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of H. R. 9971, which the Clerk will report by title.

The Clerk read the title of the bill.

The CHAIRMAN. There is an amendment pending, and the Clerk will report the pending amendment for the information of the committee.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 8, line 3, strike out the words "guilty" and "of" and insert after the word "court," the following: "or the commission to have been."

The question was taken, and the amendment was rejected.

Mr. McKEOWN. Mr. Chairman, I move to strike out the last word. There is no question but what some radio legislation is necessary. The great trouble with this bill is that the opponents on one side belong to one school and the proponents on the other side belong to another school. I think the idea is prevalent in the United States, viewed from the standpoint of the men engaged in great commercial enterprises, that business of all kinds ought to be free, loose, and untrammeled by legislation. There are two schools of thought. One school is that all commercial industry ought to be permitted to expand without any unnecessary restrictions. There are men who belong to that school of thought who are conscientious and who believe in that doctrine. On the other hand, there is a school of thought that there ought not to be great combinations of capital in business to the extent that it will crowd out the small and individual citizens in the United States. To this latter school I belong.

We ought not to destroy a good bill because we differ on some subjects and such a matter ought to come before the House so that the House can express its opinion on it. But, gentlemen, here is what is the matter, and we may as well get the Senegambian out of the woodpile to start with. This bill was reported out in a former Congress and passed by a former Congress with provisions curtailing the right to monopolize any radio legislation.

Mr. LEHLBACH. Will the gentleman yield for a correction?

Mr. McKEOWN. Yes.

Mr. LEHLBACH. No radio bill has ever passed the House.

Mr. McKEOWN. Well, it was reported out and it passed the House.

Mr. LEHLBACH. The last Congress, I mean.

Mr. McKEOWN. I said it passed the House. Now, here is the situation and here is all there is to this controversy: The gentlemen who voted out this latter bill got themselves in a hole, because they had just as much intelligence at the time they voted it out with that provision in it as they have now. When they found out that as the bill came out it put too much of a clamp on certain concerns that control certain things that are sold to the radio users of this country there was a great deal of complaint. Let us talk the facts about it. When that bill came out they found they had been hooked. Then certain gentlemen affected came around blowing hot and blowing cold. They came around to some members of the committee and said, "You are trying to destroy our industry, and if you will only put in the word 'unlawful,'" as stated by the gentleman from California [Mr. FREE] yesterday, "we will be satisfied." But some more ingenious mind conceived the idea that if you leave section 4 out and then attempt to put it in on the floor it will be subject to a point of order. Now, here is the trouble. They come to some of us and say they will be satisfied if we put in the word "unlawful" and then they find they can get the whole thing out and they agree to do that.

I do not want to destroy any great business because it is a great business. Any lawful industry of this country ought to have the good will of the legislative department of the Government, but I want to say to you now that I do not want any combination or trust to destroy me or the American people. I am not going to be destroyed by a vote on this proposition simply because some fellow has gotten himself into a hole.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. McKEOWN. Mr. Chairman, may I have five minutes more?

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to proceed for five additional minutes. Is there objection?

There was no objection.

Mr. McKEOWN. Now, gentlemen, here is the situation. Why should we not have an opportunity to vote upon this trust proposition in this bill, upon a motion to strike it out? Why should not the membership of this House have an opportunity to vote upon the question involved in paragraph 4 of this bill? This is the way I feel about it, in view of the facts. They come down here in one instance and they want to write the word "unlawful" in the paragraph, and state they will be satisfied. Then they come again and get the whole thing stricken out. I am in favor of putting in section 4.

I never was wild about section 4. I never was crazy about the proposition, but I want to show you gentlemen on this committee what kind of attitude you are put in before the American people You have voted at one time for section 4 and have reported it out, knowing at the same time that it trespassed, as you now say, upon the Committee on Interstate and Foreign Commerce. Now you are in the attitude of back tracking, and what good excuse can you give the American people on that proposition?

Mr. KING. Will the gentleman yield?

Mr. McKEOWN. I yield.

Mr. KING. I would like to have a little bit of information. I want to know, when this bill is passed and becomes the law, will it be possible for the Secretary of Commerce and his associates or other concerns in the country to control the character of the information that goes over the radio?

Mr. McKEOWN. Well, I think the bill practically puts ample power in the Secretary of Commerce to control, in a measure, the kind and character of information that goes over the radio.

Mr. KING. It is simply an addition to the Propaganda University, is it not?

Mr. McKEOWN. Well, of course, the radio business is here, and we want to correct it as far as possible, and we ought to do it while we are legislating. I agree with the gentleman about that.

But here is the proposition involved in this matter. If you pass this bill and put in section 4, you are not going to hurt these fellows. They have always been able to take care of themselves. They have in the past and they will always be able in the future to do it. If we ever expect to curb or change monopoly in this country, if that is our viewpoint as a majority of the people, we will have to change our method of legislating.

Mr. WILLIAMSON. Will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. WILLIAMSON. After all, does it make so very much difference with reference to this proposed section 4? Is it not up to the Secretary of Commerce to say who shall be licensed and who shall not be licensed, no matter what the law may be?

Mr. McKEOWN. Oh, if you put section 4 in the bill, he would be restricted. Section 4 has to do with the sale of tubes and other things that are used by the buyers throughout the country, and we say they shall not monopolize this business and control it. The gentleman knows that under our present antitrust laws there are many ways it is evaded. It is evaded by having breakfasts, conferences, pink teas, and by a nod of the head, or by the holding up of hands, whereby prices may be fixed and regulated.

The question is going to come before us some day as representatives of the American people, and we will have to decide how to deal with business without ruining and destroying business, at the same time protecting the consumers of the country from the tendency to take more than is right and just from them. We inherited the tendency to monopolize from our forefathers. Way back in the days when Elizabeth was Queen of England, many monopolies were originated affecting not only land but necessaries.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

The pro forma amendment was withdrawn.

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 8, line 6, after the word "sale," insert the words "or use."

Mr. DAVIS. Mr. Chairman and members of the committee, the purpose of this amendment is very evident. I think all will agree that an adjudication that applies to monopolizing the use should have equal force in refusing a license as either the manufacture or the sale. However, I do not care to discuss this at length, but I do want to call attention to the fact which I stated yesterday, that this bill is weaker than the first bill which the committee reported out during this session of Congress. It is weaker considerably than the bill the committee reported out in the last Congress, as well as in the previous Congress, so far as embracing any effective antimonopoly provisions therein is concerned. The very section to which I have offered this amendment has been practically destroyed. In the bill reported and passed through the House in the Sixty-seventh Congress and in the bill reported in the last Congress, each time unanimously reported by the committee, this section then authorized and directed the Secretary of Commerce to refuse a broadcasting license to any applicant provided the Secretary of Commerce himself was of the opinion the applicant was monopolizing or attempting to monopolize any field of the radio business. It has now been so changed that he is not authorized to do that until after the applicant shall have been convicted; or as the language reads, shall have "been found

guilty" of a violation of the antitrust laws. Why, you even refuse to strike out the word "guilty" so as to permit him to refuse a license upon an adjudication of such facts in a civil proceeding.

And as this bill was first introduced in the present Congress, it did not have the words "after this act takes effect," but the committee amended the bill by inserting those words. Why? Because there is now pending a complaint of the Federal Trade Commission charging that certain companies are in a monopoly and are violating the antitrust laws of the United States. That matter is now pending. This language is changed, so that if they adjudge that those companies are already in such a monopoly and violating the laws, even then they are still entitled to come in and receive their licenses to continue to broadcast and to continue to violate the laws of the United States. There is another suit pending, a civil action, brought by Doctor Fessenden, a noted inventor, and, of course, even if a similar adjudication is had in that case, it would have no effect under the provisions of this bill. So that all that this means or can mean, in spite of talk to the contrary, is that if the Department of Justice should perchance hereafter institute a criminal proceeding against a certain member or members of the radio monopoly, and it should finally get through all of the courts, and they be found guilty, then a license would be refused.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken; and on a division (demanded by Mr. DAVIS) there were—ayes 44, noes 52.

So the amendment was rejected.

Mr. DAVIS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 9, lines 1 to 8, strike out the words "The Secretary of Commerce may grant station licenses only upon written application therefor addressed to him, which application shall set forth such facts as he by," and insert in lieu thereof the following:

"No license shall be issued under the provisions of this act unless the applicant shall have first filed in duplicate with the Secretary of Commerce and with the commission a written application therefor, accompanied by a statement in writing under oath or affirmation, containing copies of all traffic and other contracts in writing, and the substance of any and all other agreements or arrangements not in writing, between the applicant and any other person, firm, company, or corporation engaged in the business of transmitting for pay or profit by wire or wireless intelligence, signals, visual images, or other communications, or in the manufacture, use, purchase, sale, and/or operation of apparatus, patented or unpatented, for the transmission and/or reception by wire and/or wireless of intelligence, signals, visual images, or other communications, and/or for the acquisition, purchase, use, or sale of patents, patent rights, and licenses, and disclosing all shares of the capital stock or other share capital of/or interest owned by the applicant, directly or indirectly, or held, directly or indirectly, for such applicant's benefit in any corporation, association, firm, or person engaged in the manufacture, use, or sale of apparatus or devices for wire or wireless transmission or communication, or in the business of transmitting by wire or wireless intelligence, signals, visual images, or other communications, and including such other facts as the Secretary of Commerce and/or the commission by."

Mr. DAVIS. Mr. Chairman, it will be noted that in subsection (D), on page 9, it is provided that the Secretary of Commerce may only grant a license upon a written application therefor, which shall furnish certain information that is already recited in the section. This amendment simply amends the section so as to require the applicant to answer certain additional questions and to file copies of any written contracts or the statements of the substance of any oral contract involving agreements between the applicant and any other radio or wire utility. That is not requiring a thing more than is required by the Interstate Commerce Commission of every railroad. The fact of the matter is that a railroad common carrier can not enter into a contract of any consequence with another common carrier without first submitting the contract to the Interstate Commerce Commission and obtaining their approval. Why should we treat these people differently? It has already been stated, and I have stated it in my minority views that the Interstate Commerce Commission has been given certain jurisdiction over wireless utilities, as well as wire utilities, but they have never exercised it.

They are so submerged, as the gentleman from Virginia put it yesterday, with railroad work that they are behind all the time in that work, and their work is increasing all of the time, so that it is going to be absolutely impossible for them to perform the duties and functions imposed upon them with regard to communication utilities. We have already invaded their province in certain particulars, and we have already provided for a commission, and if this amendment be adopted I shall offer another amendment which will authorize the radio commission to consider these applications, and if it appears to their satisfaction that the applicant himself shows in his application and the contracts attached thereto that he is violating the laws of the United States the commission shall decline to grant to him a license. Then he may come in and have a full, open hearing, in which both sides may be permitted to introduce all competent evidence and arguments, and if the applicant is violating the antitrust laws it shall certify such finding to the Secretary of Commerce, who shall continue to refuse the license. Then the applicant shall have the right of appeal to the courts.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. DAVIS. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. DAVIS. And then permit the commission to either grant a temporary license or not, according to the showing made, during the pendency of the appeal. That is all entirely fair. It is not as strong a requirement as is the case even with common carriers, and I want to tell you, gentlemen, that you are up against a powerful monopoly. You are dealing with what is going to be the most powerful political instrument of the future. We are dealing with something that enters and can enter into every home in this country, in respect to matter along political, social, religious, educational, or any other line, and the people are spending hundreds of millions of dollars for radio apparatus and other people are wanting to use the apparatus and service, and they ought not to have to invariably go to the monopoly. Even if the Secretary of Commerce is willing to license them, they ought not to be compelled to go to a monopoly to find out whether they can broadcast or not, and in what manner and upon what terms, which is the situation now.

I have no interest whatever in this except as a citizen and as a Member of this House, and my desire is to do what I am convinced is to the best interest of all of the people, not only of the listeners but the vast number of independents who are already engaged or wanting to engage in the radio industry and are being crowded out. [Applause.]

Mr. LEHLBACH. Mr. Chairman, the amendment offered by the gentleman from Tennessee does not add one jot or tittle to the section as it is written. The section provides now that the Secretary of Commerce may grant station licenses only upon written application therefor, which application shall set forth such facts as he by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant, the ownership and location of the proposed stations, and so forth, and such other information as he may require. Under that the Secretary of Commerce in proper cases may elicit, and unquestionably will elicit, exactly the information set forth in detail in the amendment; but the amendment is so drawn that every applicant must furnish the information set forth in the amendment. You would have a situation where a university could not ask for a broadcasting license unless it should file its contract with the telephone company for service.

Mr. JOHNSON of Texas. Mr. Chairman, this bill is of vital interest to the millions of radio fans in America, but its importance can not be measured by the present number of radio listeners in the United States. It involves far more than the right of those who now enjoy this modern and most phenomenal invention of the age. It is estimated that there are now more than 5,000,000 radio-receiving sets in the United States. Placing the average number of listeners to each set at four would make 20,000,000 of our citizens who now daily, and especially nightly, "listen in" to voices and sounds carried by electric waves without wire or other conveying device for thousands of miles. This army of listeners will doubtless increase, and it should not be long until a majority of our population will, through this means, receive both entertainment and information. Aye, more than that, Mr. Chairman, if this newest of industries is not stifled or monopolized and other inventions in connection therewith are encouraged and not retarded, it should, in course of time, afford, not only for public broadcasting but for sending private messages as well, the cheapest, quickest, and more satisfactory means of communication the world has ever known.

A. M. Low, an English scientist, in a book called "Wireless Possiblities," published in 1924, predicts that in a few years we shall be able to chat with our friends who are in an airplane or on the streets with the help of a pocket wireless set,

and do practically everything by the aid of radio that we now do with our voice. He further states that broadcasting at present has become so universal only on account of the exceedingly public nature of wireless, and predicts that by the means of other inventions we will be able to obtain accuracy of tuning and direction, whereby we can then carry on a conversation which can be conducted with a reasonable degree of secrecy.

John V. L. Hogan, an American consulting engineer, in a recent volume—1925—entitled "The outline of radio," in treating the subject of "Overland radio," tells us that a pair of intercommunicating radio stations, say, 500 miles apart, can now be erected for a comparatively modest sum, and without worry as to right of way for lines, and so forth, and that other radio stations in connection therewith can be established, saving cost of wire, line maintenance, and so forth, and that these could serve as radio links between important cities which could compete with the wire lines in public-telegraph service.

He furthermore informs us that the use of radio for such intercity telegraphy is already being used on the west coast of the United States, in England, and in Germany, and that the German stations are rendering a very satisfactory service with Spain, Italy, and Rumania. He suggests that if the wireless waves could be—

practically focused into a single beam traveling in a single direction, the results would be much better.

It would seem to me, therefore, that when an invention of this character is perfected, overland radio should supplant, in a large measure, the present system of wire telegraphy and afford a much cheaper means of communication.

I mention these probabilities of the future use of radio to emphasize the thought that in legislating upon this important subject we should regard not alone the present but the future as well, and should therefore exercise care in seeing that telegraph and telephone companies and other agencies now serving the public, who doubtless would object to this new and cheaper form of competition if it should be perfected, shall not now or hereafter have conferred upon them by law the right or given the opportunity to preempt or monopolize this important field of invention.

Marvelous has been the growth and development of radio within the past few years. The principle upon which it is based was discovered by Guglielmo Marconi when he invented what is known as radio telegraphy in 1896, when he telegraphed, without the use of wire, a distance of 2 miles. This wireless system has been perfected and improved by other inventions of Marconi and several others, and messages can now be sent across the Atlantic Ocean and for thousands of miles overland.

American inventors, including Prof. R. A. Fessenden, of the University of Pittsburgh, and others, developed by their experiments and discovery radio telephony whereby the human voice is transmitted. The development of this new method was rather slow, and it was not until 1920 that a radio telephone station in Pittsburgh, Pa., began to broadcast concerts, speeches, news bulletins, and church services. Since that time broadcasting stations have been established in great numbers. There are now 536 broadcasting stations in the United States, comprising two-thirds of those in the entire world, and, as I have already stated, there are estimated to be 5,000,000 receiving sets in this country.

Last fall, while visiting the various counties in the congressional district which I represent, I was impressed with the large number of radio receiving sets in that section of Texas. In every city, town, and village aerials were to be seen, and frequently on the roofs of isolated farm houses, indicating that they had availed themselves of this new invention and were in constant touch with the great outside world. Market reports, speeches—political and otherwise—sermons, concerts, baseball results—the world series was being played at the time—and a variety of information and entertainment was being daily and nightly enjoyed by the occupants of these homes. This is one invention that tends to keep people at home, and let us hope that it will aid in keeping and restoring the family circle so essential in the preservation of the American home.

There is no agency so fraught with possibilities for service of good or evil to the American people as the radio. As a means of entertainment, education, information, and communication it has limitless possibilities. The power of the press will not be comparable to that of broadcasting stations when the industry is fully developed. If the development continues as rapidly in the future as in the past, it will only be a few years before these broadcasting stations, if operated by chain stations, will simultaneously reach an audience of over half of our entire citizenship, and bring messages to the fireside of nearly every home in America. They can mold and crystallize sentiment as no agency in the past has been able to do. If the strong arm of the law does not prevent monopoly ownership and make discrimination by such stations illegal, American thought and American politics will be largely at the mercy of those who operate these stations. For publicity is the most powerful weapon that can be wielded in a Republic, and when such a weapon is placed in the hands of one, or a single selfish group is permitted to either tacitly or otherwise acquire ownership and dominate these broadcasting stations throughout the country, then woe be to those who dare to differ with them. It will be impossible to compete with them in reaching the ears of the American people.

Subsidy of radio broadcasting would be far more effective and dangerous than subsidy of the press. For if every newspaper in the United States could be purchased by some trust or combination, independent and competing newspapers could be established. But if the broadcasting stations, which are necessarily limited in number, can be acquired, or even a majority of the high-powered stations owned and controlled by a trust, then the public will be helpless to establish others, unless the Government protects them in this right. Freedom of the air will be impossible if the Government either licenses or permits monopoly ownership of radio sending stations. There was evidence in the hearings on this bill that some of those now broadcasting had violated the antitrust law of the United States.

The people of Texas are interested in legislation on this subject. I have received several letters from my district concerning it. I want to quote from one which I received, last December, from a farmer who lives in an inland rural community in my home county. Among other things the writer says:

Please use your influence in keeping corporations from getting control of the air by a series of chain stations, high-power stations, purchase of wave lengths, or any other monopoly that would create further disturbances which will interfere with our listening in on other closer-in stations. The combination of the eight large stations in the northeastern part of the United States of America are very annoying to people in Texas at times when we wish to "listen in" on Chicago, Kansas City, St. Louis, etc. A few more high-power stations scattered on across to the Pacific coast and chained in with them will practically put near-by stations out of business with the hum and whiz and buzz that will be in the air.

There has been no general radio legislation by the Federal Government since 1912. At that time wireless telegraphy alone had been invented, and its use was limited almost exclusively to ocean-going vessels. I realize that its growth and development require additional legislation—the prevention of interference by sending stations would of itself justify regulation and control. There must be some orderly assignment and regulation with reference to wave lengths; otherwise there would be such a conflict in the use of ether that the public would hear nothing but a confusion of sounds.

The Secretary of Commerce under existing law has directed the industry, issued license permits, has made regulations, some of which are of doubtful legality because of the inadequacy of the law. So legislation is necessary, but I want to be sure that the new law will safeguard the rights of the public in two respects at least.

First. That license permits will be so issued, and after issued so controlled, by the Government that the broadcasting stations in America can not be owned and dominated by a single group. In other words, that a trust will not be permitted in the ownership of the license or in the operation of broadcasting stations.

Second. That the broadcasting stations shall be required by a mandatory provision of law to serve the public like other public-service concerns, and in so doing shall not be permitted to discriminate against anyone, either as to service or as to rates.

While the bill has several commendable features it does not meet the requirements in the particulars that I have pointed out, and unless it is so amended I shall have to vote against its passage.

At the proper time I shall offer an amendment, reading as follows:

On page 11, line 1, after the word "charge," following the comma, insert "or has been guilty of any discrimination either as to charge or as to service"; and on page 12, line 1, after the word "charge," following the comma, insert "or has been guilty of any discrimination either as to charge or as to service."

The object of this amendment is to prevent discrimination by any of the licensees of radio broadcasting stations, either as to charge or as to service, and if adopted it would authorize the Secretary of Commerce to revoke any license theretofore granted, provided the Interstate Commerce Commission, or any other Federal body, had certified to the Secretary of Commerce that such licensee had been guilty of such discrimination.

There is no such provision in the bill, and in my judgment it should be incorporated therein.

I fear, however, that it would be exceedingly difficult to revoke a license, since the Interstate Commerce Commission is so busily engaged with affairs concerning the railroads that it would not have the time to hear complaints with reference to discrimination or other acts of omission or commission by these licensees. Whether this amendment is adopted or not, I shall therefore propose another amendment, reading as follows:

On page 10, line 7, after the word "act," strike out the period, insert a colon, and add the following: "*Provided further*, That equal facilities and rates, without discrimination, shall be accorded to all political parties and all candidates for office, and to both the proponents and opponents of all political questions or issues."

This amendment I regard as even more important than the previous one, since it would be incorporated as a part of subparagraph (E), and the licensee would accept the license subject to this express limitation. In other words, the Government would grant the license to the broadcasting station on the express agreement and understanding that it should not discriminate against political parties, or candidates for office, or political issues. We have such a law governing telegraph companies. Section 10081 of the United States Compiled Statutes, relative to telegraph companies, provides that they must—

provide equal facilities to all without discrimination in favor of or against any person, company, or corporation whatsoever, either as to rates or as to service.

These amendments I shall discuss more in detail when I formally offer them to the House. I arose at this time to support the pending amendment, offered by the gentleman from Tennessee [Mr. DAVIS]. I had prepared an amendment very similar, which I had expected to offer, but since this amendment is substantially the same as mine, I shall not offer it, but hope that the amendment now pending may be adopted.

The purpose of this amendment, as was so well stated by the gentleman from Tennessee [Mr. DAVIS], is to prevent the issuance of licenses to those who are violating the antitrust laws or who are engaged in furthering a monopoly of any character. It requires the applicant for license to accompany his application with such papers and contracts as may disclose the relation of the applicant to other companies and corporations, and to make proof that such applicant is not now violating the law. So that the Secretary of Commerce may be informed of the relation of the applicant to other concerns, and the application would thereby disclose whether or not applicant is violating any law of the United States in restraint of monopolies.

If we are to prevent the ownership of broadcasting stations throughout the United States from falling into the hands of a trust or a trust-controlled group, the law should, by all means, provide that those to whom licenses are issued are not then violating the antitrust law. Lawbreakers should not be licensed by the Government. Other restrictions should be placed in the bill, which would require cancellation of license for violations in this regard after issuance thereof. But the pending amendment would require the applicant to show that he was observing the law at the time he sought for license for broadcasting.

I would like to have the attention of the gentleman from New Jersey [Mr. LEHLBACH] who has just spoken in opposition to this amendment. I understood him to say that under the present law the Interstate Commerce Commission has the right to elicit this information, as provided in the amendment, in so far as same relates to telegraph companies.

Mr. LEHLBACH. I said nothing of the sort——

Mr. JOHNSON of Texas. But that is the law, nevertheless.

Mr. LEHLBACH. What bears upon the Interstate Commerce Commission has no applicability in this particular. It is information to be filed with an application for a license.

Mr. JOHNSON of Texas. I understand the terms of the amendment. I started to say the law provides—I have it before me, and I speak advisedly.

Mr. DAVIS. If the gentleman will permit, the gentleman from New Jersey is correct that under the bill, as it is now written, the Secretary of Commerce could call for that very information. The difference is that my amendment requires that that information shall be furnished. That is the difference between "may" and "shall."

Mr. LEHLBACH. Why fill the archives of the Secretary of Commerce with irrelevant and useless information?

Mr. DAVIS. It is not irrelevant to state the reasons.

Mr. JOHNSON of Texas. What I started to say when I was interrupted by the colloquy between the gentleman from New Jersey [Mr. LEHLBACH] and the gentleman from Tennessee [Mr. DAVIS] was this: That there is a Federal statute now which provides that telegraph companies shall furnish to the Interstate Commerce Commission substantially the same information that radio applicants would be required to furnish to the Secretary of Commerce by the amendment of the gentleman from Tennessee. I want to read, as I started to do a moment ago when interrupted, section 10085 of the United States Compiled Statutes, which is from the twenty-fifth statute, 384, which provides as follows:

It shall be the duty of each and every one of the aforesaid railroad and telegraph companies, within 60 days from and after the passage of this act, to file with the Interstate Commerce Commission copies of all contracts and agreements of every description existing between it and every other person or corporation whatsoever in reference to the ownership, possession, maintenance, control, use, or operation of any telegraph lines or property over or upon its rights of way, and also a report describing with sufficient certainty the telegraph lines and property belonging to it, and the manner in which the same are being then used and operated by it, and the telegraph lines and property upon its right of way in which any other person or corporation claims to have a title or interest, and setting forth the grounds of such claim and the manner in which the same are being then used and operated; and it shall be the duty of each and every one of said railroad and telegraph companies annually hereafter to report to the Interstate Commerce Commission, with reasonable fullness and certainty, the nature, extent, value, and condition of the telegraph lines and property then belonging to it, the gross earnings, and all expenses of maintenance, use, and operation thereof, and its relation and business with all connecting telegraph companies during the preceding year, at such time and in such manner as may be required by a system of reports which said commission shall prescribe; and if any of said railroad or telegraph companies shall refuse or fail to make such reports, or any report as may be called for by said commission, or refuse to submit its books and records for inspection, such neglect or refusal shall operate as a forfeiture in each case of such neglect or refusal of a sum not less than $1,000 nor more than $5,000, to be recovered by the Attorney General of the United States, in the name and for the use and benefit of the United States; and it shall be the duty of the Interstate Commerce Commission to inform the Attorney General of all such cases of neglect or refusal, whose duty it shall be to proceed at once to judicially enforce the forfeitures hereinbefore provided.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRIGGS. I ask unanimous consent that the gentleman may proceed for an additional five minutes.

The CHAIRMAN. The time on this amendment is exhausted.

Mr. JOHNSON of Texas. Part of my time was consumed by other gentlemen. May I have two additional minutes?

Mr. BRIGGS. Mr. Chairman, I am asking unanimous consent of the committee that the gentleman's time be extended for five minutes.

The CHAIRMAN. The Chair is putting the request.

Mr. SCOTT. I shall object to that; I am sorry, as the gentleman himself only wanted two minutes——

Mr. JOHNSON of Texas. I would prefer to have five minutes.

Mr. SCOTT. Certainly. There are a lot of fellows here on the floor would like a half hour.

Mr. JOHNSON of Texas. I have not taken any time on the bill heretofore, and I am deeply interested in this legislation.

The CHAIRMAN. Is there objection to the gentleman having an additional five minutes? [After a pause.] The Chair hears none.

Mr. JOHNSON of Texas. This provision of law which I have just read was adopted in 1888, nearly 40 years ago, and it makes the same provision with reference to telegraph companies that is sought now to be done by this amendment with reference to radio broadcasting stations. Its purpose was to disclose the relation between telegraph companies so that the Government could ascertain whether or not violation of the antitrust law was being engaged in by telegraph companies, and if it has been considered a wise provision—and I judge that it has, since it has been the law for 40 years—to require telegraph companies to impart this information, why would it not be equally wise to require radio broadcasting stations to furnish such information at the time that broadcasting license is issued by the Government?

I think the amendment is a wise one and safeguards the rights of the public, and these institutions which will enjoy this great privilege granted them by the Government should be required to show that they are not then violating the antitrust laws and should thereafter—as does the law with reference to telegraph companies—make annual report to show that they are still refraining from so doing. A monopoly control by telegraph companies would not be nearly as harmful as a monopoly ownership and control by radio broadcasting stations. Will not

this Congress be as careful in safeguarding the rights of the public with reference to radio as we were with reference to the use of the telegraph, nearly 40 years ago?

Mr. WHITE of Maine. Will the gentleman yield?

Mr. JOHNSON of Texas. I yield.

Mr. WHITE of Maine. Will the gentleman indicate again what section of the Interstate Commerce Commission act he referred?

Mr. JOHNSON of Texas. From Twenty-fifth Statutes, section 384.

Mr. WHITE of Maine. It does not make it mandatory, in the first place, to file the notice called for by the commission?

Mr. JOHNSON of Texas. No; the gentleman is in error. The law provides:

It shall be the duty of each and every one of said telegraph companies within 60 days from and after the passage of the act to file.

And so forth.

It is mandatory; it is not optional. It further requires that each year thereafter they shall file a report showing whether there have been any changes in this regard. If the House desires to prevent monopoly ownership of radio, it will adopt this amendment. [Applause.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee [Mr. DAVIS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. EVANS. A division, Mr. Chairman.

The CHAIRMAN. The gentleman from Montana asks for a division.

The committee divided; and there were—ayes 64, noes 6.

Mr. DAVIS. Mr. Chairman, I demand tellers.

The CHAIRMAN. The gentleman from Tennessee demands tellers.

Tellers were ordered; and the Chairman appointed Mr. SCOTT and Mr. DAVIS to act as tellers.

The committee again divided; and the tellers reported—ayes 92, noes 105.

So the amendment was rejected.

Mr. MOORE of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia: On page 8, in line 8, after the word "means," strike out the period and add to the sentence the following: "or have been using unfair methods of competition." On line 9 substitute for the word "prosecuting" the words "proceeding against," and in line 10, after the word "for," insert the words "using unfair methods of competition or for."

Mr. MOORE of Virginia. Mr. Chairman, I would like to have the attention of the gentleman of the committee. The only change that the amendment would make, should it be adopted, is to provide that when a court finds that there have been unfair methods of competition used—and the decree of the court would rest on the finding of the Federal Trade Commission—then the license would be revoked, just as when a court finds that the antitrust laws have been violated.

That is the first proposition. The other proposition is to omit the word "prosecuting" in line 9. The amendment suggests instead of using the word "prosecuting" use instead the words "proceeding against."

The word "prosecuting" implies a criminal prosecution, and it ought to be "proceeding against," so as to broaden out the meaning.

Mr. SCOTT. I would be inclined to agree to that last suggestion. I think the gentleman's point is well taken.

Mr. MOORE of Virginia. The third proposition connects with the first point I made. That is to say, the granting of a license shall not estop the Government or a person from proceeding under the Federal trade act as well as under the antitrust act. I will ask the Clerk to read the amendment again for information.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk read as follows:

On page 8, line 8, after the word "means," strike out the period and add to the sentence the following: "or have been using unfair methods of competition." In line 9 substitute for the word "prosecuting" the words "proceeding against," and in line 10, after the word "for," insert "using unfair methods of competition or for."

Mr. MOORE of Virginia. Now the committee will see that the amendment, after all, does only two things. It recognizes that where the Federal Trade Commission has found the use of unfair methods of competition and the courts have approved the findings of the commission, then the status shall be exactly as when it has been found by a court that there has been a violation of the antitrust laws; and the other point, about which there seems to be no disagreement, is that we ought to get rid of the idea of confining litigation to criminal proceedings by eliminating the word "prosecuting."

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. MOORE of Virginia. May I have two minutes more?

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MOORE of Virginia. I would like to say that I advanced a view yesterday afternoon, and because at that time I spoke of my friend from Maine [Mr. WHITE], a little later on I will explain the inaccuracy of the view I then expressed.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Virginia.

The amendment was agreed to.

Mr. JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Texas: On page 11, line 1, after the word "charge," following the comma insert "or has been guilty of any discrimination either as to charge or as to service"; and on page 12, line 1, after the word "charge," following the comma insert "or has been guilty of any discrimination either as to charge or as to service."

Mr. JOHNSON of Texas. Mr. Chairman and gentlemen of the committee, this amendment is designed to prevent discrimination by any of the licensees of radio broadcasting stations either as to charge or as to service. There is no provision of the bill that expressly prohibits discrimination, and in my judgment it is highly important that this amendment should be adopted.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. I do.

Mr. SCOTT. If the gentleman is satisfied with what he has said of the amendment, I will accept it.

Mr. JOHNSON of Texas. I thank the chairman of the committee for accepting my amendment, which, of course, means that it will be adopted, and I will not detain the House longer.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. JOHNSON].

The amendment was agreed to.

Mr. JOHNSON of Texas. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Texas: On page 10, line 7, after the word "act," strike out the period, insert a colon, and add the following: "*Provided further*, That equal facilities and rates, without discrimination, shall be accorded to all political parties and all candidates for office, and to both the proponents and opponents of all political questions or issues."

Mr. WHITE of Maine. Mr. Chairman, I make the point of order against the amendment that it is not germane.

Mr. JOHNSON of Texas. Will the gentleman reserve his point of order for a moment?

Mr. WHITE of Maine. The amendment is not pertinent to this section, and it has no germaneness to this particular section. This particular section provides the matter which shall be included in the form of a license while this is a substantive provision of law which the gentleman proposes to insert.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order?

Mr. JOHNSON of Texas. Yes; Mr. Chairman, I regard the amendment as very important and would like to be heard on the point of order.

This amendment provides that at the end of paragraph (E) there shall be added another subparagraph (d) thereto which will be as follows:

(d) *Provided further*, That equal facilities and rates, without discrimination, shall be accorded to all political parties and all candidates for office, and to both the proponents and opponents of all political questions or issues.

Paragraph (E) enumerates in (a), (b), and (c) certain conditions on which the Secretary of Commerce shall issue license to broadcasting stations, and the license is accepted by

the licensee subject to the limitations contained in (a), (b), and (c), the preliminary portion of paragraph (E) reading as follows:

Such station licenses as the Secretary of Commerce may grant shall be in such general form as he may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which license shall be subject.

Then follows the limitations contained in (a), (b), and (c), (a) providing:

The ownership or management of the station or apparatus therein shall not be transferred in violation of this act.

(b) provides:

There shall be no vested property right in the license issued for such station, or in the frequencies or wave lengths authorized to be used therein.

And (c) provides:

Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this act.

It will be observed that all of these provisions relate to the future use, ownership, and control of the license so granted, and are in effect limitations upon the right of the licensee in the use thereof. This amendment is germane, because it relates to the manner and use of the license by the licensee regarding his operation thereof, and this is the subject with which the paragraph deals. If this amendment is adopted, it will simply impose one other limitation, and that is, that the licensee in the use of his license shall not discriminate, but shall afford equal facilities to all political parties and all candidates for office, and to the proponents and opponents of all political issues or questions, and it occurs to me, therefore, that the amendment is germane, and that the point of order should be overruled.

Mr. LEHLBACH rose.

The CHAIRMAN. The Chair is ready to rule.

Mr. BLANTON. Mr. Chairman, I want to be heard for a moment. This is a serious matter.

The CHAIRMAN. The Chair will recognize the gentleman from New Jersey before he recognizes the gentleman from Texas.

Mr. LEHLBACH. Mr. Chairman, this paragraph simply prescribes the form of license that the Secretary is to issue. It provides that neither the station to be operated by the licensee may be assigned or transferred nor the license itself be transferred or assigned, and it also provides that there shall accrue no vested property right in the license. It has nothing whatever to do with the transmission of radio communications pursuant to the license.

Mr. BLANTON. Mr. Chairman, this is a bill to regulate radio transmissions, and we are reading this bill by sections. And to determine whether this amendment is germane or not, we must consider all of the provisions of section 2 of this bill.

The CHAIRMAN. What does the gentleman say as to the relationship between the amendment and the section wherein the amendment seeks to fix rates, while the section says nothing about rates?

Mr. BLANTON. Under paragraph (c) the Secretary of Commerce "shall make an equitable distribution of licenses, bands of frequency or wave lengths, and of power," and so forth. There are several paragraphs in section 2 that relate to monopolies and to any monopolistic tendency on the part of radio companies in the conduct of the radio business. It is to regulate that and to prevent it. What greater monopoly could there be than for a radio corporation or a radio company engaged in the public business of broadcasting radio messages to grant one rate to one political party and charge an entirely discriminatory and different rate to another political party? What greater monopoly could exist than where a radio company would give the free use of its line to one candidate for office or one contender for some economic theory, and then deny such use to those who are on the other side of the question?

Mr. LEHLBACH. Mr. Chairman, I make the point of order that the gentleman is discussing the merits of the amendment and is not discussing the point of order.

Mr. BLANTON. I am discussing what section 2 provides. It seeks to prevent a monopoly. This amendment of my colleague [Mr. JOHNSON of Texas] seeks also to prevent a monopoly, and in my judgment it is germane.

The CHAIRMAN. The gentleman will please confine himself to the point of order.

Mr. BLANTON. The point of order is that the amendment is not germane to section 2, which section would prevent monopolies, and the amendment also would prevent monopolies, hence it should be germane.

The CHAIRMAN. The Chair is ready to rule. The Chair is glad to have heard from the gentleman from Texas. The Chair sustains the point of order, as the Chair does not believe that the section to which the amendment is offered has anything to do with the making of rates, and that the amendment primarily undertakes to fix rates. Hence the Chair rules that the amendment is not germane to the section to which it is offered.

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: On page 9, after line 20, insert a new subsection, as follows:

"On the information disclosed by the applicant in connection with his application as provided by subsection D, and upon such other proof as may appear, the commission shall determine whether or not the applicant is directly or indirectly in violation of the laws of the United States monopolizing or attempting to monopolize interstate or foreign commerce, or is engaged, directly or indirectly, in a violation or in an attempt to violate the laws of the United States against combinations, contracts, or agreements in restraint of trade; in the transmission by wireless for pay or profit intelligence, signals, visual images, or other communications; in the acquisition, sale, or use of patents, patent rights, and/or licenses for wireless inventions and discoveries; in the purchase, manufacture, sale, use, and/or operation of apparatus, whether patented or unpatented, for the transmission and/or reception by wireless of intelligence, signals, visual images, or other communications. If said commission determines that as a matter of law or as a mixed question of law and fact said applicant is violating the laws of the United States in any of the above respects, it shall certify such finding to the Secretary of Commerce, and the latter shall refuse to grant the license applied for. A copy of the decision of the commission shall be served on the applicant, who shall thereupon have a right to a hearing before the commission and at which any party interested shall be entitled to be represented by counsel, and to submit such further evidence, oral or written, as may be material and competent. After said hearing the commission shall make its decision in writing, setting forth its findings of fact and rulings of law; and if it finds that the applicant is violating the laws of the United States in any of the above respects, it shall certify such finding to the Secretary of Commerce, and the latter shall refuse to grant said license. Any applicant for a license aggrieved by a decision of the commission shall have a right of appeal from the decision of the commission to the Court of Appeals of the District of Columbia, and the commission shall, upon notice of the entry of the appeal, certify under the signature and seal of the commission a copy of its decision stating its conclusions of fact and the rules of law applied in arriving at its decision, together with the evidence, if requested, upon which it based its decision. Upon all questions of fact the decision of the commission shall be final, but said court of appeals shall have the power of revision of the decision of the commission on all questions of law, and its decision thereon shall be final. During the pendency of any appeal to said court of appeals the commission shall have authority, in its discretion, if it deems the law to be doubtful and so declares in its opinion, to authorize the Secretary of Commerce to grant a license to the applicant upon such terms and conditions as it deems consistent with public interest, but upon a decision by the court of appeals that said applicant is guilty on the facts found by the commission of violating the laws of the United States in any of the above respects, said license shall forthwith be revoked."

Mr. DAVIS. Mr. Chairman and members of the committee, when I offered the previous amendment directing the application to contain certain questions calling for certain agreements and information, the gentleman from New Jersey stated that it did not add one iota to the bill, because the bill already provides for calling for certain information and authorizes the Secretary to call for any additional information he desires.

This proposed amendment simply authorizes the commission to refuse to grant a license to an applicant if it appears to the satisfaction of that commission upon the application and upon other facts appearing that that applicant is violating the law, and first, to direct the Secretary of Commerce to refuse to grant a license. Thereupon, the applicant, if he feels aggrieved, can ask for a hearing before the commission and have a full hearing upon the facts and the law. Then, if the commission upon this hearing holds that the applicant is violating the laws of the United States, the Secretary shall continue to refuse to grant the license.

Thereupon the applicant, if dissatisfied, can appeal to the Court of Appeals of the District of Columbia, and it is discretionary with the commission pending the appeal to authorize the Secretary of Commerce to issue a temporary license, or if they are fully convinced the applicant is violating the laws the commission shall decline to agree for a license to issue until

after the final adjudication. In other words, it puts the onus upon the law violator and not upon the people. That is the difference. The way it is now they will receive a license, no matter how often or how much they are violating the laws, and there is no authority or direction to refuse them a license until they shall have been finally convicted in a court; and during the years the case will be pending in the various courts they will be enjoying the license just the same as any other law-abiding company or citizen.

It is just a question of whether you want to protect the rights of the people and of the law-abiding citizens who are wanting licenses or whether you want to preserve and protect the rights of monopolies and of those who are violating the laws. [Applause.]

Gentlemen, to-day there are 425 applications on file with the Secretary of Commerce for broadcasting licenses, which he is refusing to issue on the pretext that all of the wave lengths have been taken up. Is it right to continue refusing these licenses to all of these citizens in order to continue issuing them to those who are most flagrantly violating the laws of the land without at least saying to the law violators, "You have got to come into this office with clean hands; you have got to purge yourself of your illegal practices and conduct before you are entitled to a license."

That is the proposition. [Applause.]

Mr. CROWTHER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think the gentleman from Tennessee did not make the statement advisedly that the Secretary of Commerce is refusing these licenses, on the pretext, as the gentleman declared, that there is not opportunity with the present number of wave lengths to grant licenses to the concerns that at present have their applications pending.

I think if the gentleman will look into the question carefully, he will find that under the present conditions, in the allocation of wave lengths, say, from 300 meters down to 200, which are the lowest wave lengths that are used for broadcasting purposes—by that I mean concerts and entertainments—the amateurs are all 200 meters and below; and a great deal of experimentation is going on for the development of broadcasting by instruments that will send and receive from as low as 40 meters up to 150 meters.

The present status of radio or the present development of radio invention precludes the possibility of there being any greater distribution of wave length than has now been given by the Department of Commerce. Those of you who have experimented at all or have even been in possession of an instrument will find that below 300 meters or between 30 on your dial and zero, it is almost impossible to tune in a station clearly even 200 or 300 miles away because of the great number of them and the overlapping tendency of the wave bands to creep one upon the other and develop a heterodyne whistle, which is extremely annoying and makes it impossible to have good, clear reception.

I do not think the refusal is based on a pretext. The conditions that exist are really a matter of fact and there are no more wave lengths than can be distributed without crowding the air and destroying good reception.

The gentleman from Tennessee said yesterday, if I remember correctly, and I made a memorandum of it at the time, he thought the present law was all sufficient. I think the gentleman said that in quoting from the other law.

Mr. DAVIS. Will the gentleman yield?

Mr. CROWTHER. I may be mistaken about that. I yield.

Mr. DAVIS. The gentleman misunderstood me.

Mr. CROWTHER. Then I withdraw the statement.

Mr. DAVIS. I stated in my speech that supplemental legislation was imperative, but I was in favor of the right kind of legislation.

Mr. CROWTHER. I am glad I understand the gentleman's attitude.

Now, Mr. Chairman, overnight almost, an invention may upset this whole condition of control that exists now. There has been a great deal of attention and a good deal of discussion about the monopolistic tendency that may develop under this legislation. I want to say that so far as the manufacture of the products is concerned, I do not think there is anything in the United States that is as free from danger of monopolistic control as radio apparatus, parts, and complete sets.

The fact of the matter is, gentlemen, in one of the most expensive instruments made to-day, costing from $200 to $300, there is not a thing used in the construction of that instrument that can not be constructed by the average bright, intelligent American young man from 15 to 18 years of age. He can make everything that is in that set. He can buy the materials, he can buy individual parts, and he can construct a set for probably $50 to $75 that commercially sells as high as $300. You may think the latter price is high, but they have combined furniture with radio building and customers are now largely buying furniture in the shape of fancy cabinets, consoles, and so on, which appeal to the artistic ideals of our American women.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CROWTHER. Mr. Chairman, may I have five minutes longer? I do not very often talk about anything but the tariff and do not take up very much time of the House. [Laughter and applause.]

The CHAIRMAN. Unless there is objection, the gentleman's time will be extended five minutes.

There was no objection.

Mr. CROWTHER. Mr. Chairman, I do not like the tendency to load the bill down with legislation that looks forward to prosecuting everybody that is in the business. Of course, that may be the legal side of it. It seems to me lawyers are always desirous of incorporating such provisions in legislation. They seem to have the viewpoint of the prosecutor. They are determined there shall be provisions in the legislation that will enable them to go after somebody, hound them, persecute them, and drag them into court.

I do not know why that is so, probably they have all been prosecutors, all been judges—they are all honorable men, of course, but it seems that their tendency is to vision all corporations as likely offenders against the law. I think we have sufficient monopoly legislation. I believe as far as the rates are concerned the Interstate Commission will realize its responsibility and perform its duty when this measure becomes a law.

Mr. BLANTON. Will the gentleman yield?

Mr. CROWTHER. Yes.

Mr. BLANTON. I want to ask the distinguished gentleman from New York whether this is not the case: Every time a Member seeks to put teeth into a measure somebody rises up and tries to extract the teeth?

Mr. CROWTHER. Well, I do not think that is so.

Mr. CONNALLY of Texas. That was the profession of the gentleman from New York.

Mr. CROWTHER. As the gentleman from Texas says, that at one time was my profession; but I only extracted such teeth as were bad and useless, and that is why I am against the amendment.

Mr. BLANTON. When the gentleman spoke about the lawyers I wanted to call attention to the fact that there are other professional men.

Mr. CROWTHER. I do not think it is necessary to load the bill down with such things. It seems to me that we have law enough to take care of the monopolistic part of the question and that that can be attended to without further legislation. Radio and radio transmission will not be exempt any more than any other corporations under the existing law. This radio is a wonderful thing, and I think we should hasten the passage of this bill. There are some things in it I do not like. I am not particularly strong for the commission. You are talking about economy all the time and every once in a while new legislation trips along and they demand the naming of new commissioners, clerks, bureau heads, and it is so in this measure. I believe this work can be done as at present in the Department of Commerce where it is being ably done, probably with a little additional help. I think one man, a former Member of this House, could attend to this work with one or two assistants and transact it very satisfactorily and to the great benefit of the general community.

Here is a great invention, the greatest invention of the age. It brings more entertainment, more happiness, and more information to the people of the United States than anything that was ever considered on the floor of this House. It is a godsend to the blind; it is a godsend to the shut-ins and those poor people lying in the hospitals, and gives them a contact with the outside world they otherwise could never enjoy. Members of Congress have been discussing over the radio issues of the day and matters before Congress. There have been some sharp things said, some things caustically critical, by men on both sides of the House, but no offense has been taken and I believe Members have tried to be eminently fair in the presentation of their subject matter. The tax bill, prohibition, appropriation bills, economy have been discussed to the betterment of general understanding and resulting in the dissemination of some real valuable information to the people of the country. I believe that in a few years inventions improving radio apparatus are so rapidly progressing that some genius will so perfect radio appliances that they will absolutely prevent railroad disasters, where even a slight

divergence in the position of a rail will give a signal in the engineer's cab and stop the train automatically before it reaches the place of danger. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LEHLBACH. Mr. Chairman, I think the committee ought to understand that the commission created in the amendment and the commission mentioned in the bill are totally different. The amendment of the gentleman from Tennessee and the amendments which he proposes to offer propose a commission that is not created and is not contemplated in the bill. The commission provided for in the bill is simply an advisory commission to assist the Secretary of Commerce in determining questions of fact and of policy and to whom the Secretary of Commerce may refer matters and to hear appeals which it may be desirable to take. An appeal from it lies to the courts. What the gentleman from Tennessee seeks to create, and in the meaning of this amendment, is a commission with powers with respect to radio communications that are enjoyed with respect to other means of communication by the Interstate Commerce Commission and superimposed upon the powers of the Federal Trade Commission. It may be advisable some time to adopt a policy to create a commission with powers over communication by telegraph, telephone, and cable. If such a commission is created, it should be created after careful consideration by an appropriate committee and a bill reported here which has been thoroughly digested and on which those who are interested have been heard in the committee. To attempt to create this kind of a commission for radio alone by means of a series of amendments on a bill that does not contemplate such a system is a method of legislating which can only result in confusion and failure. These amendments change the entire character and purport of the bill before us.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. DAVIS. Is it not a fact that section 8 of this bill already provides for the creation and establishment of a Federal radio commission which shall be appointed by the President, with the advice and consent of the Senate, for a term of several years?

Mr. LEHLBACH. Yes.

Mr. DAVIS. This amendment that I have offered simply adds another duty to the duties already imposed upon that commission, and that is that in considering an application they shall refuse the license if they find that the applicant has violated the law.

Mr. LEHLBACH. Is it not the gentleman's purpose and desire to create a commission for radio that has the power and strength of the Interstate Commerce Commission?

Mr. DAVIS. Yes; that is true, but I am in favor of conferring this power upon the commission.

Mr. LEHLBACH. But this is a nonpay advisory commission.

Mr. DAVIS. Oh, no; they get $25 a day and all expenses.

Mr. LEHLBACH. Yes; for 120 days.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken; and on a division (demanded by Mr. DAVIS) there were—ayes 50, noes 81.

So the amendment was rejected.

Mr. MOORE of Virginia. Mr. Chairman, I find that in the mere matter of language there is an error in the amendment I offered as it was adopted a moment ago. I have made a correction and have shown that correction to the gentleman from Michigan [Mr. SCOTT] and the gentleman from Maine [Mr. WHITE]. I ask unanimous consent that the former action of the committee be rescinded.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the former action of the committee in adopting the amendment referred to be rescinded. The Clerk will report the amendment as it was adopted.

The Clerk read as follows:

Page 8, line 8, after the word "means," strike out the period and add to the sentence the following: "or to have been using unfair methods of competition."

In line 9, substitute for the word "prosecuting" the words "proceeding against."

In line 10, after the words "for a," insert "for using unfair methods of competition or for."

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia that the former action of the committee in adopting the amendment which has just been reported be rescinded?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment now offered as modified.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia: On page 8, in line 8, after the word "means," strike out the period and add to the sentence the following: "or to have been using unfair methods of competition."

In line 9, substitute for the word "prosecuting" the words "proceeding against."

In line 10, after the word "corporation," insert "for violating the law against unfair methods of competition or."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Virginia.

The amendment was agreed to.

Mr. BANKHEAD. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BANKHEAD: Page 8, line 4, transpose the word "to," so that it will appear after the word "unlawfully."

Mr. BANKHEAD. Mr. Chairman, that is merely to correct the grammatical construction and to avoid a split infinitive.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DAVIS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 11, line 4, after the word "service," insert a comma and the following: "or has violated or failed to observe the laws of the United States relating to unlawful restraints and monopolies or to combinations, contracts, or agreements in restraint of trade."

Mr. DAVIS. Mr. Chairman, a previous subsection directed the Secretary of Commerce to refuse to grant a license to an applicant who had been found guilty in a Federal court of violating the antitrust laws. This section 2, subsection (F), provides that any station license granted by the Secretary of Commerce shall be revocable by him for false statements either in the application or in the statement of facts which may be required, and also for various other offenses which are recited in the section, provided the Interstate Commerce Commission or any other Federal body in the exercise of the authority conferred upon it by law shall find and certify the same to the Secretary of Commerce. Why is not the principle exactly the same? Why should not that provision be inserted here, and pray tell me why any member of the committee or anyone else has any objection to that?

Mr. SCOTT. Either the gentleman is greatly in error or I am. I think that the amendment offered by the gentleman from Virginia [Mr. MOORE] covers the gentleman's proposition, in line 1, page 11, after the word "charge," adding the words "or has been guilty of any discrimination as to charge or service."

Mr. DAVIS. He may be guilty of discrimination as to charge or service, but still in no sense guilty of a violation of the antitrust laws or vice versa.

My amendment simply embraces one of the very provisions that you have in the preceding subsection authorizing a refusal to grant a license, and a more important one than any already in the section. If you are going to revoke a man's license because he makes a misstatement, are you not also willing to do it when he violates the laws of the land?

Mr. BLANTON. Will the gentleman yield?

Mr. DAVIS. I will.

Mr. BLANTON. I was thinking the committee has been most liberal indeed because they did accept the amendment offered by the gentleman from Alabama [Mr. BANKHEAD] a moment ago to prevent a split infinitive, and I thought the committee should be commended for accepting such an amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the Chair announced the noes seemed to have it.

On a division (demanded by Mr. DAVIS) there were—ayes 60, noes 63.

So the amendment was rejected.

Mr. DAVIS. Mr. Chairman, I have still another amendment. Mr. Chairman, there seems to have been some misunderstanding here about the announcement of the vote.

The CHAIRMAN. The Chair announced that the ayes were 60 and the noes were 63, and the amendment was lost.

Mr. DAVIS. I thought the Chair announced that the ayes had it.

The CHAIRMAN. The Chair gave plenty of opportunity to demand anything the gentleman wanted.

Mr. DAVIS. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 12, line 12, after the word "communications," strike out the period and insert a semicolon and the following language: "but no person, firm, company, or corporation violating any of said laws shall be entitled to any license or permit provided for in this act."

Mr. DAVIS. Mr. Chairman, of course that amendment speaks for itself. It is another effort to dissolve this monopoly and protect the rights of the people. But I wish to make some comment upon certain statements made by the gentleman from New York [Mr. CROWTHER]. He referred to the statement that 425 applications for broadcasting licenses had been refused upon the pretext that there were no more available wave lengths. I did not mean that in any offensive sense, as the gentleman apparently took it. As a matter of fact, the present law requires the Secretary of Commerce to issue licenses to anybody who applies for same, provided they are American citizens and come within certain other requirements.

Mr. CROWTHER. Will the gentleman yield?

Mr. DAVIS. I will.

Mr. CROWTHER. How can you grant it if it is not practical to use it?

Mr. DAVIS. That, of course, is another matter. That does not alter the law.

Mr. CROWTHER. That is the question that is involved regarding the gentleman's other statement.

Mr. DAVIS. I am not criticizing the Secretary in that respect, but the law is mandatory, and the courts have so held. It is true that under the present development of the art there are only a certain number of available wave lengths, but the gentleman overlooks the fact that licenses upon the same wave length have been repeatedly issued. Why, on one wave length 27 licenses have been issued, on others 23, 24, and 25, and all along. On 275 meters, 27 have been issued. I have a map here showing the situation, and I hope all you gentlemen can see it. Nearly all the licenses are crowded in here. Here are 25, 20, 15, and 10 licenses on single wave lengths. Over here you see they have been grouped, the vast majority of licenses have been crowded into these wave lengths.

Over here are a large number of wave lengths, and a much smaller number of licensees. There are 14 that have 5,000 watts, whereas a majority of those in the other group have a very small amount of power.

Mr. CROWTHER. Will the gentleman yield?

Mr. DAVIS. Yes.

Mr. CROWTHER. The gentleman has just stated that one of the reasons why a great number of stations have been allocated with wave lengths is because they are low-power stations and the extent of their reach in radio reception is very limited as to mileage and there is no great harm done by interfering with one another, and in order to broadcast a wave length sufficient to get a reception from great distances is involved power at the broadcasting station to carry it over the distance required.

Mr. DAVIS. Yes; but who has the desirable wave lengths, the exclusive wave lengths? Who is it that have wave lengths that are worth something?

Mr. CROWTHER. What does the gentleman mean by "wave lengths that are worth something"?

Mr. DAVIS. Wave lengths that are really useful. The exclusiveness of the wave length, the band of frequency, the power that you are permitted to broadcast with, all these things enter into the value of a license. A license to broadcast may not be worth a farthing.

Mr. CROWTHER. If the gentleman will yield, he knows that not many of the stations are engaged commercially in the broadcasting of entertainments. Most of the entertainments are furnished free to the people of the United States, and they are a source of great enjoyment to everybody, and not only a source of great enjoyment but of instruction.

Who could listen to the capable addresses of Members of this House, for example, devoting themselves to the various important services of the Government without realizing the tremendous benefit they are to the people of the United States in an educational way—Members on this side of the House and Members on both sides of the House?

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. DAVIS. Mr. Chairman, in view of the time that has been taken up in these colloquies I will ask for five additional minutes.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to proceed for five additional minutes. Is there objection?

Mr. SCOTT. Reserving the right to object, Mr. Chairman, I ask, not in an unkindly spirit, how many amendments the gentleman from Tennessee has in mind to offer?

Mr. DAVIS. I will state that I have several. But I believe that the gentleman from Michigan will concede that these amendments are being offered in good faith.

Mr. SCOTT. I hope that they are offered in good faith; but I will say this to the gentleman, that he will get plenty of time.

Mr. DAVIS. The gentleman has no right to say that he "hopes," when he knows what my position has been. He knows that I have never filibustered in the committee or in this House on any bill, and, furthermore, the last amendment that I offered was defeated in this committee by a vote of only 63 to 60.

Mr. SCOTT. I realize that fact. I aim to be perfectly fair with the gentleman. The gentleman has been on the subcommittee considering this bill for four years, and the only difference between the present bill that we are now considering and the bill that the gentleman recommended to the House in accord with other Democratic Members is the elimination of section 4.

Mr. DAVIS. No. I differ with the gentleman. I have already called attention to the very radical difference in section 2, as to the refusal of licenses, and other differences besides the elimination of section 4. I have been studying this subject for six or seven years, and that is the reason I am offering these amendments. It is because I think I know a little about the subject. The time will come when I will be fully vindicated as to my position with respect to this legislation.

The CHAIRMAN. Does the gentleman from Michigan object?

Mr. SCOTT. No; I do not object to his taking five more minutes.

The CHAIRMAN. The gentleman from Tennessee is recognized for five minutes more.

Mr. DAVIS. Now, as to the question of wave lengths and power, take our State, for example. The power that the broadcasting stations in my State are authorized to use is an aggregate of 2,910 watts, and yet there are 14 stations that are each authorized to use 5,000 watts, and there is one that is authorized to use 40,000 or 50,000 watts. Furthermore the 10 stations in my State are required to broadcast upon wave lengths upon which 125 stations are permitted to broadcast.

Mr. WHITE of Maine. Mr. Chairman, will the gentleman yield there?

Mr. DAVIS. Yes.

Mr. WHITE of Maine. Is it not true as a matter of fact that a large majority of these stations operate on these low wave lengths, and 90 per cent of them are so permitted because they themselves asked to go there, because they can operate on low power and at least expense?

Mr. DAVIS. I will say that that is true in some instances, but it is not true of all of them. One thing further: The gentleman from New York [Mr. CROWTHER] spoke of anybody being able to make a receiving set. Yes; there is competition in the manufacture of receiving sets. I believe the Federal Trade Commission said there were 17 companies making receiving sets. But the report also shows that there were 18 suits pending, brought by the radio monopoly against those that manufacture these sets, their charge being that they were infringing on their patents or using tubes which they had undertaken to sell qualified by conditions.

Now, the gentleman knows that there is a monopoly in broadcasting apparatus, and in the hearings Mr. Wilson, I believe it was, of the American Telegraph & Telephone Co., stated that he did not think they ever had sold broadcasting apparatus with the privilege on the part of the purchaser of operating it and charging for the service.

They were not permitted to come in competition with the American Telephone & Telegraph Co. and its associates. All that the independent broadcasters can get is what the monopoly are willing for them to have, and upon such terms and conditions as they prescribe, as the gentleman, of course, knows.

The gentleman from New York [Mr. CROWTHER] wanted to know why we wanted to bother the radio monopoly. Was it a salutary thing that when a great number of our American metropolitan newspapers in this country wanted to establish an international radio service of their own, they found that the field had been preempted by the Radio Corporation and were compelled to go to Nova Scotia to establish their station, through which they could transmit and receive press radio dispatches to and from foreign countries?

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee [Mr. DAVIS].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. DAVIS. A division, Mr. Chairman.

The CHAIRMAN. The gentleman from Tennessee demands a division.

The committee divided; and there were—ayes 46, noes 58.

So the amendment was rejected.

Mr. MOORE of Virginia. Mr. Chairman, I move to strike out the last line of the section.

The CHAIRMAN (Mr. BEGG). The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia: Strike out the last line of the section on page 13, line 3.

Mr. MOORE of Virginia. Mr. Chairman, I wish to make a statement that may not be of any importance to anyone but myself. It is in the nature of a personal statement. Yesterday I was commenting upon the relation of the Interstate Commerce Commission to the subject we are dealing with, and directing attention particularly to subsection (F), which gives a discretion to the Secretary in the matter of revoking licenses. I said, inaccurately, that the Secretary ought to be compelled to revoke a license when the Interstate Commerce Commission has found that there has been a violation by a radio company of its duty in that it has established unreasonable rates or unreasonable practices. I think that is an incorrect view. I think that subsection (F), so far as the matter I am alluding to is concerned, is very properly drafted, giving the Secretary of Commerce a discretion in the matter and not compelling him to issue an order of revocation.

Take the case of a railroad company. The Interstate Commerce Commission may find that the company is charging a rate that is too high or indulging in some practice that ought not to be continued. Nevertheless that does not work a destruction of the franchise of the railroad company or a cessation of its operations. So I say it may be that the Interstate Commerce Commission might find similarly with respect to the operations of a radio company and yet it might be most harsh and unwarranted to forthwith upon that ground revoke the license of the radio company. I say all of this mainly because the gentleman from Maine [Mr. WHITE] was involved in my remarks. He did not reply to a question that I put to him, and now my statement makes the reply unnecessary.

Mr. WHITE of Maine. I am very much obliged to the gentleman.

The pro forma amendment was withdrawn.

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 13, after line 3, insert a new section as follows:

"SEC. —. The Federal radio commission shall also have all the powers to investigate and regulate and all the duties of investigating and/or regulating persons, firms, companies, and corporations engaged in interstate or foreign commerce in the business of transmitting for pay or profit by wireless intelligence, signals, visual images, or other communications, in the acquisition and sale of patents, patent rights, and licenses, for wireless inventions or discoveries, and/or in the use, purchase, sale, and/or operation of apparatus, patented or unpatented, for the transmission and/or reception by wireless of intelligence, signals, visual images, or other communications which the Interstate Commerce Commission has to investigate and regulate common carriers under 'An act to regulate commerce approved February 14, 1887,' and all acts amendatory thereof and supplementary thereto. Excepting as otherwise provided by this act, in all proceedings under this section the procedure, including service of process, returns, hearings, attendance of witnesses, depositions, orders, and enforcement thereof and other methods, shall or may be the same as that prescribed or otherwise in proceedings before the Interstate Commerce Commission, and the jurisdiction of the courts with respect to proceedings under this section shall be like their jurisdiction over proceedings before the Interstate Commerce Commission."

Mr. LEHLBACH. Mr. Chairman, I make the point of order against the amendment that it is not germane. This gives to the Federal radio commission, a commission that we must assume is created in the act and constituted as it is constituted in the act, jurisdiction over the acquisition and sale of patents, patent rights, and licenses for wireless inventions or discoveries, and in the use, purchase, sale, and operation of apparatus, patented or unpatented, for the transmission and reception by wireless of intelligence, signals, and so on. Now, that is entirely without the scope of this bill. This bill deals with the sending of radio communications, the licensing of those who desire to send such communications, and the regulation of the sending of such communications by the licensees, and prescribing penalties for the violation of the restrictions, limitations, and regulations to be followed by the licensees in sending radio communications. The bill has nothing to do with the manufacture or sale of devices for the reception of wireless communications and has nothing to do with the traffic in patents or anything of that sort.

Mr. DAVIS. Mr. Chairman, of course the proposed amendment authorizes the commission to regulate the things therein specified. I call the chairman's attention to the fact that this is a bill for the regulation of radio communications, and for other purposes, as stated in the title. That is what it undertakes to do all through the bill, and it creates this commission. If the chairman will refer to section 8, on page 21, he will see where the commission is established, and then on the next page he will see that the Secretary of Commerce refers to the commission any applications for licenses or for the use of wave lengths or for power in connection therewith, or any other matter, the determination of which is vested in him under the terms of this act. Then it goes on and provides for appeals.

The CHAIRMAN. Will the gentleman from Tennessee permit the Chair to ask him a question?

Mr. DAVIS. I will be glad to have the Chair do so.

The CHAIRMAN. Is there anything in the bill—and will the gentleman point it out if there is—that regulates or undertakes to regulate anything other than who shall have licenses to operate and what shall be sent under the licenses?

Mr. DAVIS. Oh, yes.

The CHAIRMAN. The Chair would like to have the gentleman point that out to him.

Mr. DAVIS. I think there is a great deal in the bill as to that.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. DAVIS. Yes.

Mr. COOPER of Wisconsin. Does not the bill, in line 11, on page 3, provide that the Secretary shall determine the kind of apparatus to be used?

Mr. WHITE of Maine. Only with respect to external effects.

Mr. DAVIS. I refer the Chair to page 10, subsection (f), where he is authorized to revoke a license in various and different instances and, among others, where the licensee has failed to provide reasonable facilities for the transmission of radio communication or has made any unjust and unreasonable charge. That is right directly in line with the amendment I have offered. It provides, as the Chair will note, that there shall be no unjust and no unreasonable classification, regulation, or practice with respect to the transmission of radio communications or service. The gentleman from Virginia [Mr. MOORE] offered another amendment which was accepted, and how is it to be determined? This simply authorizes the commission to do the very things that are recognized in the bill as being grounds for the revocation of a license. I think this whole bill is a regulation bill. Then another thing with respect to this commission. I call the Chair's attention to page 23, lines 10 to 17, which show conclusively that it is expected that this commission will act and perform some real functions, because they are authorized to set up an organization of experts and others for the purpose of doing so.

Mr. LEHLBACH. Mr. Chairman, I wish to say in reply that every instance of the exercise of power over the licensees, which the gentleman has cited, deals with the transmission of messages and other communications by radio. It does not have anything to do with the buying and selling of patented rights or the manufacture and sale of materials and devices.

The CHAIRMAN. Unless some other gentleman has something of import bearing on the point of order, the Chair is ready to rule. The Chair will try to be very brief in his ruling. This amendment, as the Chair understands it, after careful reading, seeks to regulate concerns engaged in this particular kind of business, namely, the manufacture of radio apparatus, even to the extent of investigating the business and the business methods used in the conduct of the said business; even to the extent of going into the question of buying and controlling and the sale and ownership of patents.

The Chair is unable to find anything in the bill that seeks to do anything other than investigate what? The ability of the applicant to meet the requirements of law before being issued a license. With this addition, the bill gives the commission the right to investigate the conduct of the business of the licensee after having been granted the license, and it gives the commission the added power to revoke the license for certain violations.

The question raised by the gentleman from Wisconsin [Mr. COOPER] with reference to the language on page 3 is not a question at all of regulating the business, but is a question of investigation as to the licensee's ability to furnish the power to send the wave length for which he has asked a license.

Hence the Chair, by all the reasoning at his command, is compelled to sustain the point of order.

The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

SEC. 3. Any applicant for a permit or license whose application is refused by the Secretary of Commerce, and any holder of a license revoked by the Secretary of Commerce, shall have the right to appeal from such refusal or revocation to the Court of Appeals of the District of Columbia by filing with said court within 20 days after the decision complained of is effective, notice in writing of said appeal and of the reasons therefor.

The Secretary of Commerce shall be notified of said appeal by service upon him, prior to the filing thereof, of a certified copy of said appeal and of the reasons therefor. Within 20 days after the filing of said appeal the Secretary of Commerce shall file with the court the originals or certified copies of all papers and evidence presented to him upon the original application for a permit or license or in the hearing upon said order of revocation, and also a like copy of his decision thereon and a full statement in writing of the facts and the grounds for his decision as found and given by him. Within 20 days after the filing of said statement by the Secretary of Commerce either party may give notice to the court of his desire to adduce additional evidence. Said notice shall be in the form of a sworn petition stating the nature and character of said additional evidence, and the court may thereupon order such evidence to be taken in such manner and upon such terms and conditions as it may deem proper.

At the earliest convenient time the court shall hear, review, and determine the appeal upon said record and evidence, and may alter or revise the decision appealed from and enter such judgment as to it may seem just. The revision by the court shall be confined to the points set forth in the reasons of appeal.

Mr. CELLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN (Mr. MADDEN). The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CELLER: Page 13, lines 8 and 9, after the word "the" in line 8, strike out the words "Court of Appeals of the District of Columbia" and insert "United States district courts"; strike out all of line 22, page 13, after the words "given by him," and also lines 23, 24, 25, on page 13, and also strike out lines 1, 2, 3, 4 on page 14.

Mr. CELLER. Mr. Chairman and gentlemen of the committee, briefly the object of the amendment is to make appeals running from the decisions of revocation or refusal by the Secretary of Commerce to the district courts of the United States rather than limit the appeals to the Court of Appeals of the District of Columbia.

There is no reason why any party who feels aggrieved should be compelled to come to the District of Columbia to have its appeal considered by the Court of Appeals of the District of Columbia. Government exists for the convenience of the citizens and there is no good reason why these appeals by citizens should not be made as convenient as possible for them. I am aware of a decision which was cited in the hearing——

Mr. RAMSEYER. Will the gentleman yield?

Mr. CELLER. I yield.

Mr. RAMSEYER. Why does the gentleman strike out the language beginning in line 22 with respect to the right to adduce additional evidence?

Mr. CELLER. I say to the gentleman from Iowa I will come to that later. It is necessary in view of the decision I shall cite.

Mr. RAMSEYER. Let me ask this further question: Instead of striking out the court of appeals, why does not the gentleman leave that and include the circuit courts of appeal of the United States?

Mr. CELLER. I am willing that this be done, but I do not think we can include the circuit courts of appeal unless we strike out lines 22 to the end of the section. If the gentleman will bear with me one moment, I will tell him the reason why. In the hearings there was cited the case of Keller against The Potomac Electric Co. found in two hundred and sixty-one United States Reports, page 428. If my memory serves me correctly that decision was cited by Judge Davis, of the Department of Commerce, and he cited that case as an argument against taking the consideration of these appeals from the Circuit Court of Appeals of the District of Columbia or from the Supreme Court of the District of Columbia, because as the section is now worded you would place legislative power (not the judicial power necessary but the power to legislate) in the control of the circuit court of appeals. This decision, which Judge Davis of the Department of Commerce cited as an argument for his contention, is one where the Potomac Electric Light Co., of the city of Washington, appealed from a decision of the Public Utilities Commission of the District as to a rate which was fixed by that utilities commission. Under the act which allowed the appeal the Supreme Court of the District was empowered not merely to decide legal questions and questions of fact incident thereto but also to amend and if need be enlarge valuations, rates, and regulations established by the commission, which the court found upon the record and the evidence to be inadequate and the court could make such order as in its judgment the commission might have made. In other words, the Supreme Court of the District would have the right to hear all the testimony, if necessary de novo, and to increase a rate or to reduce a rate made by the Public Utilities Commission.

Now, by virtue of the Constitution, Article I, section 8, the Congress has the power to exercise exclusive legislation in all cases whatsoever over the District of Columbia. Congress thus has the right to vest that legislative power to enlarge or reduce a rate in the courts of the District; that is, the Supreme Court or the Court of Appeals of the District. But Congress can not vest such power in any other court. When, as in this case, an appeal was taken from the decision of the Court of Appeals of the District to the Supreme Court of the United States, the Supreme Court of the United States, in a decision of Mr. Justice Taft, rightly held there could be no such appeal running to the Supreme Court of the United States, for his court could not have vested in it, nor could any United States district court, the power to increase or decrease a rate since that would amount to legislation.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CELLER. Mr. Chairman, I ask unanimous consent to proceed for three additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CELLER. The Supreme Court rightly held that the United States Supreme Court or any of the United States district courts would not have the right in the consideration of an appeal to either widen the rate or to reduce the rate.

Now, Judge DAVIS seems to hold——

Mr. RAMSEYER. Will the gentleman yield there?

Mr. CELLER. Yes.

Mr. RAMSEYER. Does the gentleman think the last part of the language here which he seeks to strike out involves the issue of that case at all?

Mr. CELLER. I think so, because it provides that—

Within 20 days after the filing of said statement by the Secretary of Commerce either party may give notice to the court of his desire to adduce additional evidence.

Mr. RAMSEYER. Additional evidence on the question of revocation.

Mr. CELLER. But even so, if they can produce additional evidence, the court then would probably have the right to legislate for future guidance of the Electric Light Co.

In other words, we must beware of the distinction pointed out not only in Keller *v.* Potomac Electric Co. (supra) but also in the case of Prentis *v.* Atlantic Coast Line Co. (211 U. S. 210). If the power conferred is judicial, then the United States district courts, the United States Circuit Court of Appeals, and the United States Supreme Court may all have jurisdiction, but if the power conferred be legislative, then these courts can not accept jurisdiction conferred upon them or any of them by Congress. That is not the case though as to courts of the District of Columbia. Congress may endow them, vest them even with legislative powers.

I thus strike out the last part of the section to avoid granting any semblance of legislation to the United States district courts. For example, to widen a wave length or to reduce a wave length might be deemed legislation. Jurisdiction of the district courts throughout the whole country can not be used to exercise that power. In any event, I would say that it would be for the interest of safety to strike out the last part of the section if you want to get jurisdiction into the district courts. That would limit the United States district courts to a determination as to whether the action of the Secretary of Commerce was just or unjust, legal or illegal, whether he acted in abuse of discretion or within his lawful discretion with further jurisdiction to affirm the Secretary's decision or to reject his decision and to remand the case for rehearing.

I am sure it would be a grievous wrong and an unjust burden to put upon the broadcaster to make him come to Washington. He should have the right, as we accord the right to persons aggrieved in tax matters, to go to the different courts throughout the country and not bring him to Washington, just as we do in cases involving the Federal Trade Commission and the Interstate Commerce Commission. In those cases we do not require appeals to Washington courts.

Mr. WHITE of Maine. Mr. Chairman, I want to say for myself and the members of the committee that we stand on the principle of law laid down in the case cited. We believe it is unconstitutional to attempt to impose on the Federal courts of the United States the administrative and legislative functions which are involved in this amendment. Then there are some practical objections. This paragraph was considered and comes before this House with the unanimous approval of the Committee on the Merchant Marine and Fisheries, except as to the question whether the appeal should be to the court of appeals or the Supreme Court of the District.

Mr. RAMSEYER. Why limit the appeal to one court?

Mr. WHITE of Maine. The practical difficulty about this is that if you are going to drag the Secretary of Commerce from one end of the United States to the other, with all of his technical assistants, to meet these cases, you are not going to have any Department of Commerce or Secretary of Commerce in Washington.

Mr. RAMSEYER. Is that any worse than to drag all of these other people to Washington?

Mr. WHITE of Maine. There is ample precedent for this; in appeals from the Commissioner of Patents, they go to the Court of Appeals in the District of Columbia. As I say, this provision has the unanimous approval of the Committee on the Merchant Marine and Fisheries, except that there was a controversy as to whether the appeal should be to the Court of Appeals or to the Supreme Court of the District. It would be unwise and impracticable to give jurisdiction to the courts all over the United States, even if we might constitutionally do so.

Mr. JONES. Mr. Chairman, I desire to support this amendment. In fact, I was going to offer one along similar lines if this had not been offered. It seems to me very important that this amendment should be adopted. For instance, in my home city there is a broadcasting station, and there are many towns throughout the Nation in a similar situation. If the Secretary of Commerce were to revoke the license of such a station, it would have little chance of a successful appeal if it had to come to Washington to have it adjusted, because the expense in many instances would make it prohibitive.

In practically all other matters where the rights of any man are involved he may go into the district courts of the United States of the district in which he resides and have the matter adjusted. The gentleman says it would be impracticable to take the Secretary of Commerce all over the country.

As a matter of fact the United States Government has a district attorney in every one of these districts, also a marshal, and all the facilities for adjusting disputed questions. The Secretary of Commerce could send a certified record to the district attorney and it would be his business to see that the Government's rights were protected. The local man owning the station could appear and present his rights and they could be adjusted just like tax matters and many other affairs are adjusted. When a man is charged with a violation of the prohibition law the issues are not settled in Washington.

Mr. LEHLBACH. Will the gentleman yield?

Mr. JONES. Yes.

Mr. LEHLBACH. The gentleman would not advocate a change in the law so that when the Patent Office rejected a patent the applicant could go to any district court in the United States?

Mr. JONES. That is a different matter, because patent matters are all presented in a routine way. It is a question whether there is something new involved in the application for a patent. Such an application raises the question as to whether it is wise to confer some exclusive rights, whether the Government is going to confer a monopoly.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. JONES. Mr. Chairman, I ask for three minutes more; I have not said much on this question.

Mr. SCOTT. I know the gentleman has not and I have not said much, either, and he has said more than I have on the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. JONES. The question of a patent is a question of whether the United States Government will grant a special right, a privilege by the granting of which the Government automatically excludes all other people. That question properly comes to Washington. On the other hand, the question involved here is whether you are going to deprive a man of some right, whether you are going to deprive a man of his natural right, a right that he had before any Government was organized—a right to conduct his own affairs if he does not interfere with other people. We are authorizing the Secretary of Commerce to take that right away from him, and that is an entirely different matter than the issuance of a patent. The one refers to a right, the other to a privilege.

In tax matters and other matters that come home to the citizens of this country each citizen is given the right to go into the district court of the United States of the district in which he resides. But we in effect deny a man his right to his day in court when we put this into effect. This is one of the proudest and most highly prized rights of the Anglo-Saxon race. I say that you should not take away from any citizen of the United States these or any other rights without giving him his day in court, and for all practical purposes you deny him that right when you say that from some far-away point in this land the Secretary of Commerce or some clerk in his office may on a matter that they think is important, but which the circumstances may entirely vary if properly heard, deny, revoke, and destroy his rights. You then destroy his right to a day in court, because you take it away as a practical matter. He can not in many instances afford to come to Washington.

Mr. SCHAFER. Could he not employ some of these lame-duck politicians to represent him here and protect his rights in court?

Mr. JONES. He probably could if he had the money, but that might leave his cause as lame as the duck. But, seriously, in a great many cases the cost would be prohibitive. At any rate, the Government of the United States and the United States officers in all these districts could amply and fully take care of the rights of the Secretary of Commerce.

I may add that I believe that regulation is necessary. I would like to support this measure, and shall do so if it is properly amended. But if the monopolistic privileges remain in the measure and if it is not so amended as to preserve the rights of the people in the far-away and outlying sections, I can not support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. CELLER) there were—ayes 38, noes 58.

So the amendment was rejected.

Mr. GRIFFIN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. GRIFFIN: Page 13, line 5, after the word "Commerce," strike out the words "and any holder of a license revoked by a Secretary of Commerce"; and in line 11, after the word "therefor," insert "but where the license is revoked by the Secretary of Commerce the holder of such license shall have the right to appeal to the district court where the station is located."

Mr. GRIFFIN. Mr. Chairman, the reason for presenting this amendment, which is somewhat of an alternative to the amendment suggested by my colleague from New York [Mr. CELLER], is that two classes of cases seem to be contained in this section as subjects of appeal. First, the case of the refusal of a license, and second, the revocation of a license. Where a license is refused, I agree with the gentleman from Michigan [Mr. SCOTT] that it would be wholly unjustifiable to bring the United States Department of Commerce out, say, to Oregon or California, to try the question as to whether the owner of a station ought to have a license. He is making an application ab initio and the burden is on him in the same way as when he makes application for a patent. Let him carry his case to Washington. But where a license is revoked by the Secretary of Commerce, then we have the other end of the dilemma. Take a case where a station, duly organized and licensed, with all of its witnesses in San Francisco or Seattle, is charged with some violation and a threat is made to revoke its license. Would it not be unjust under those circumstances to drag the employees of that station and all of the witnesses from the Pacific coast to Washington to be heard upon the question of revocation? To avoid that hardship is the purpose of my amendment, and I hope the committee will accept it.

Mr. BEGG. As I understand the gentleman's amendment, it gives the holder of the license in case of a revocation an option as to whether he will go into the local Federal district court or into the district court of appeals.

Mr. GRIFFIN. Yes; an opportunity to be heard where the violation is alleged to have been committed and where his wit-

nesses are within reach. I submit it would be a great hardship to require a radio broadcasting station to pay the carfare and expenses of numerous employees and witnesses from the Pacific coast to Washington to meet charges which perhaps when heard would be dismissed.

Mr. WHITE of Maine. Mr. Chairman, I rise in opposition to the amendment. I think the same practical objection applies to this amendment as to the other—that of Mr. CELLER. In the matter of granting a license or refusing one, or in the matter of the revocation of a license, technical questions are involved.

There is involved the question as to the length, the location of the station, the area to be served, the power to be utilized, and those things are technical in the extreme, and if you are to give to every court in the United States authority to pass upon the question of reaching a decision you are going to have confusion of decisions, confusion of results that will be absolutely intolerable.

Mr. GRIFFIN. If the gentleman will yield just there, the gentleman knows that the Department of Commerce has its agencies all over the United States. The questions that would come up in reference to the revocation of licenses would be mostly the nonobservance of the wave length and interference with other stations. In those cases, of course, the people in the immediate vicinity would be the best witnesses. Is not that the case?

The CHAIRMAN. The time of the gentleman has expired.

Mr. WINGO. Mr. Chairman, I think the gentleman from Maine is in error when he says this is the same proposition. Now let us see what is proposed. The amendment, as I understand, proposes where a man has a license and is already operating that station under a license, and the department here at Washington sees fit to revoke his license, that that citizen shall have the right to go into his own local Federal district court to litigate the question as to whether or not the revocation was in compliance with law and justified. Now, there is a clear distinction between permitting an appeal to a district court from a decision in the first instance where a man applies for a license de novo. Now, the gentleman from Maine called attention to the fact that one reason why, he says, he wants to try it in the District of Columbia is that it involves a good many technical questions, such as distribution, the area, and all of those other things. Now, this is one additional reason, and a fundamental reason, why a citizen should have his rights tried in his own local court. I think it is not fair to say that the courts of the District of Columbia are the only ones capable of comprehending a technical discussion involving the revocation of a permit. On the other hand, it will be a burden on every citizen of the United States to bring him to the city of Washington, say, from the Pacific coast, and the withesses upon whom he would have to rely to prove the very things the gentleman from Maine discusses, as the area, interference, the country that is served, the service, and all of these other things. It is certainly infinitely better for the Department of Commerce, which all recognize will have to use fewer witnesses, than the citizen upon whom the burden might devolve to establish his case. It certainly would be easier. There would be no way by which a citizen could bring from the Pacific coast those witnesses unless they come voluntarily, and he would have to provide for their expenses, which would be practically denying him his day in court, because the burden of expense would be intolerable.

Mr. GRIFFIN. If the gentleman will yield, might not the main burden fall on the Government in certain cases in taking its witnesses from the Pacific coast to Washington?

Mr. WINGO. It certainly would. There is another reason for it which is fundamental. It is a twofold reason. It is part of the basic philosophy of our system of government that wherever it is possible that the rights of every citizen beneath the flag shall be adjudicated in his own court, and there is to-day a tendency to bring a citizen from his own vicinity, where it is not only easier for him to produce his witnesses, but also where the community can understand and know something about the facts which are testified to and the character and demeanor of the witnesses upon the witness stand, to bring him here to the Capital City of the Nation, where all agree there is an artificial atmosphere and that has a tendency, to say the least, to browbeat a citizen and put him at the mercy of a bureaucrat who feels he is lord of all he surveys, and that there is a lack of good citizenship on the part of any man who dares to question either his good judgment or his wisdom in a matter. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the Chair announced the noes appeared to have it.

On a division (demanded by Mr. GRIFFIN) there were—ayes 34, noes 52.

So the amendment was rejected.

The Clerk read as follows:

SEC. 4. No person, firm, company, or corporation now or hereafter engaged directly or indirectly through any subsidiary, associated, or affiliated person, firm, company, corporation, or agent, or otherwise, in the business of transmitting and/or receiving for hire radio communications or signals (a) between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any other State, Territory, or possession of the United States; or (b) between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any foreign country, shall by purchase, lease, construction, or otherwise, directly or indirectly, acquire, own, control, or operate any cable or wire telegraph or telephone line or system between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any foreign country, or shall acquire, own, or control any part of the stock or other capital share of any interest in the physical property and/or other assets of any such cable, wire telegraph, or telephone line or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States or in the District of Columbia and any place in any foreign country, or unlawfully to create monopoly in any line of commerce; nor shall any person, firm, company, or corporation now or hereafter engaged directly or indirectly through any subsidiary, associated or affiliated person, company, corporation, or agent, or otherwise, in the business of transmitting and/or receiving for hire messages by any cable, wire telegraph, or telephone line or system (a) between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any other State, Territory, or possession of the United States; or (b) between any place in any State, Territory, or possession of the United States or the District of Columbia, and any place in any foreign country, by purchase, lease, construction, or otherwise, directly or indirectly acquire, own, control, or operate any station or the apparatus therein, or any system for transmitting and/or receiving radio communications or signals between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any foreign country, or shall acquire, own, or control any part of the stock or other capital share or any interest in the physical property and/or other assets of any such radio station, apparatus, or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any foreign country, or unlawfully to create monopoly in any line of commerce.

Mr. DAVIS. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 16, after line 20, insert a new section, as follows:

"SEC. —. It shall be unlawful for any person, firm, company, or corporation, in any manner or by any means, (a) to send or carry, or to cause to be sent or carried, from one State, Territory, or possession of the United States or the District of Columbia to any other State, Territory, or possession of the United States; or (b) to bring, or to cause to be brought, into the United States or into any of its Territories or possessions from any foreign country, any radio vacuum tubes or other radio apparatus or any of the parts of either, whether patented or unpatented, accompanied or then or at any time affected or impressed by or with any condition, agreement, instruction, obligation, or limitation, the purpose and/or effect of which is to fix the price at which the purchaser may resell the same, or to prohibit or restrict the parties by whom or the purposes for which said tubes and apparatus or the parts thereof may be used."

Mr. LEHLBACH. Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane.

This bill licenses persons who may transmit radio communications, and regulates the method and manner of sending such communications, and the subject matters, to a certain extent, of such communications. This amendment regulates interstate commerce in commodities such as vacuum tubes and other devices or materials or parts of radio apparatus, and is entirely without the scope of the bill.

Mr. BANKHEAD. Mr. Chairman, in that connection, will my friend allow an interruption?

Mr. LEHLBACH. I certainly will.

Mr. BANKHEAD. I would like him to state whether the amendment does not come within the broad general principles of section 4?

Mr. LEHLBACH. That is to prevent, in the sending of radio communications, which is the subject matter of this bill, a monopoly in foreign communications, and is right in line with the purpose of the bill, to wit, the regulation of radio communication.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. WINGO. I understand the gentleman's point of order is that the bill covers only licenses and regulation of communication. It does not affect the parts of apparatus?

Mr. LEHLBACH. Certainly.

Mr. WINGO. Can the gentleman explain what this means—section 4 of the bill, the antimonopoly feature? And on page 15, where you enumerate the different things you seek to control and inhibit, and where you use the words "an apparatus therein"; and on page 16 you talk about the shares or interest in the property, or other assets, apparatus, or system. It includes the communication and apparatus and all the physical property.

Mr. LEHLBACH. All the effect of the language used in section 4 is to prevent the stifling of competition in sending communications to foreign stations. Now vacuum tubes and apparatus have nothing to do with communications sent by radio. Furthermore, the effect of the amendment offered by the gentleman from Tennessee [Mr. DAVIS] would be to amend the patent laws of the country and would restrict the manufacturers of vacuum tubes and other parts of radio apparatus from exercising such control as the patent laws give them over patented articles that they now enjoy, and it would take from the manufacturers of radio apparatus the protection and privileges extended by the general patent laws to all patentees. This amendment involves exactly the same principle as that involved in another amendment of the gentleman, to which a point of order was made, which was discussed and sustained by the then occupant of the chair, the gentleman from Ohio [Mr. BEGG].

Mr. DAVIS rose.

Mr. LEHLBACH. I might also add, Mr. Chairman, if the gentleman from Tennessee will bear with me for a moment, that this introduces an element dealing with price fixing as to parts of radio apparatus, vacuum tubes, and so forth. That is not within the purview of a bill to regulate communication by radio.

Mr. DAVIS. Mr. Chairman, in the first place, I contend that the gentleman from New Jersey [Mr. LEHLBACH] is incorrect in his assumption that this bill is wholly for the regulation of radio communication. The title of the bill reads, "For the regulation of radio communications, and for other purposes," and there are various other purposes included. The gentleman from New Jersey and every other member of the committee thought that this amendment was in line with the purposes of the bill when they reported it out unanimously in the last Congress, and so far as this section is concerned, it was reported out unanimously at this session of Congress.

Mr. LEHLBACH. Does the gentleman say that the committee unanimously supported section 4 in the previous bill?

Mr. DAVIS. Yes.

Mr. LEHLBACH. I never supported it in my life.

Mr. DAVIS. I remember that it was unanimously reported out by the committee, and supported by every member present; and the bill had this identical provision in it, and such bill remained in the House Calendar for months, and until the last Congress expired.

Mr. LEHLBACH. It was not reported unanimously by every member of the committee. I do not think I was present at the time.

Mr. DAVIS. I say it was a unanimous report. I do not remember whether the gentleman from New Jersey [Mr. LEHLBACH] was present or not when this provision was adopted or the bill reported. The gentleman's absence did not alter the situation. I contend that the committee thought that it was in line with the purposes of the bill.

Then I call attention to page 3, from line 11 on. This is a section in which the Secretary of Commerce is required from time to time to classify stations, and so forth. Beginning on page 3, line 11 "and the kind of apparatus to be used, with respect to its external effects; (a) regulate the purity and sharpness of the emissions from each station and of the apparatus therein," and so forth. And then on page 16, section 4, as the gentleman from Arkansas has suggested, reference is again made to the "apparatus" and "the physical property and assets," and it has similar references in other places in the bill. It is germane not only in this specific instance, but with respect to the general purposes of the bill, because this bill purports to be a comprehensive radio bill. It specifically repeals all existing radio legislation and supplants everything hitherto enacted on the subject.

Mr. BANKHEAD. Mr. Chairman, I would like to be heard briefly on the point of order, because it seems to me it is a rather important decision that the Chair is called upon to make.

The Chair will recall that the point of order is made to the amendment offered by the gentleman from Tennessee [Mr. DAVIS] on the ground that the amendment is not germane to the bill. The Chair will note that the amendment is not offered to a present existing section of the bill, but as a new section of the bill.

I am sure the Chair is familiar with the general principle involved in the question of germaneness, but I beg to call to the attention of the Chair two or three brief excerpts from the very luminous opinion on the subject of germaneness rendered by Chairman Fitzgerald, when Chairman of the Committee of the Whole, found on page 485 of the House Manual.

I will quote this language:

> When, therefore, it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that it (the proposed amendment) is a motion or proposition on a subject different from that under consideration. This is the test of admissibility prescribed by the express language of the rule; and if the Chair, upon an examination of the bill under consideration and the proposed amendment, shall be of the opinion that they do not relate to the same subject, he is bound to sustain the objection and exclude the amendment.

By a parity of reasoning, of course, if the Chair does hold that it relates, in a general way, to the same subject, then it would be the duty of the Chair to overrule the objection. Then this language is found on page 486, in next to the last paragraph at the bottom of the page:

> Any amendment to a section which is relevant to the subject matter, and which may be said to be properly and logically suggested in the perfecting of the section in the carrying out of the intent of the bill, would be germane to the bill and thus in order. To determine whether an amendment is relevant and germane, while not always easy, can best be done by applying certain simple tests. If it be apparent that the amendment proposes some modification of the bill, or of any part of it, which from the declared purposes of the bill could not reasonably have been anticipated and which can not be said to be a logical sequence of the matter contained in the bill, and is not such a modification as would naturally suggest itself to the legislative body considering the bill, the amendment can not be said to be germane.

I do not know of any decision, Mr. Chairman, which more clearly sets out the logic and philosophy of a proper construction as to whether or not an amendment is germane, than the decision I have just read. It applies tests which, I think, are correct, and which, I think, the Chair will agree with me are correct in construing the rule of germaneness.

Let us see what is proposed by the amendment. As has been pointed out by others in the debate, the general purpose of this whole bill is the regulation of radio communications, and for other purposes. I call the Chair's attention to one regulation in the first section of the bill, at the bottom of the first page, which provides:

> No person, firm, company, or corporation shall use or operate any apparatus for the transmission of radio energy or radio communications or signals (a) from one place in any Territory or possession of the United States or in the District of Columbia to another place in the same Territory, possession, or District.

Then, after setting out the regulations affecting the transmission of communications in a general way, the section which has just been read, section 4, in substance attempts to prevent monopoly and restraint of trade.

Mr. LEHLBACH. Will the gentleman yield at that point?

Mr. BANKHEAD. Yes.

Mr. LEHLBACH. The gentleman should state that it restrains monopoly in foreign communications only.

Mr. BANKHEAD. Well, regardless of the attitude of the gentleman from New Jersey, if the Chair will carefully peruse the provisions of the bill itself he will see it is provided, for instance, on page 15, after setting out that no person, firm, company, or corporation now or hereafter engaged directly or

indirectly through any subsidiary, and so on, then skipping to the next page, page 16, that—

If in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any foreign country, or unlawfully to create monopoly in any line of commerce.

Now, Mr. Chairman, what does the amendment offered by the gentleman from Tennessee relate to? It relates to the same general subject matter as contained in section 4, that is, with reference to monopoly and restraint of trade as to certain things. Now, what are those things? It certainly relates to the apparatus necessary to conduct radio communication and it certainly relates to the same articles of commerce which are specifically mentioned in the preceding paragraph, because it provides that these vacuum tubes, and so forth, which are certainly apparatus and which are certainly articles of commerce—

or other radio apparatus or any of the parts of either, whether patented or unpatented, accompanied or then or at any time affected or impressed by or with any condition, agreement, instruction, obligation, or limitation, the purpose and effect of which is to fix the price at which the purchaser may resell the same, or to prohibit or restrict the parties by whom or the purposes for which said tubes and apparatus or the parts thereof may be used.

Well, now, how can it be said that where a bill, in every section of it, sets out the general purpose to regulate radio communications and in parts of which it specifically deals with restrictions affecting the apparatus and other articles of commerce in conjunction with such regulation—how can it be said that a separate section is not germane, when it relates to the same subject matter and to the same set of apparatus or articles of commerce, to wit, tubes, and so forth, and the purpose of which is to prevent monopoly and the restraint of trade—how can it be said by any parity of reasoning or logic or by any construction of the rules of the House, as laid down by the precedent which I have suggested, that such a proposed amendment would not also be germane to the general purpose of the bill?

It seems to me, Mr. Chairman, that it is a case where there is but one construction under the philosophy of the rules and of the precedent which I have just read, and that same philosophy obtains with reference to the amendment now under discussion.

Here is a great bill that is brought in for the purpose of amending all other regulations of law in conflict with it. It undertakes, in a general way, to regulate this great industry. It stands upon its own feet with reference to all phases of regulation. The bill restricts monopoly and imposes terms upon which apparatus may be regulated and delivered. That being so, Mr. Chairman, I respectfully and earnestly submit that an identical amendment, in substance and in purpose, should be held germane to the general purposes of the bill.

The CHAIRMAN. The Chair is ready to rule.

The amendment offered by the gentleman from Tennessee [Mr. DAVIS] reads as follows:

It shall be unlawful for any person, firm, company, or corporation, in any manner or by any means, (a) to send or carry, or to cause to be sent or carried, from one State, Territory, or possession of the United States or the District of Columbia to any other State, Territory, or possession of the United States; or (b) to bring, or to cause to be brought, into the United States or into any of its Territories or possessions from any foreign country, any radio vacuum tubes or other radio apparatus or any of the parts of either, whether patented or unpatented, accompanied or then or at any time affected or impressed by or with any condition, agreement, instruction, obligation, or limitation, the purpose and/or effect of which is to fix the price at which the purchaser may resell the same, or to prohibit or restrict the parties by whom or the purposes for which said tubes and apparatus or the parts thereof may be used.

The Chair believes that this is an effort to restrict the transportation of manufactured commodities in interstate commerce, to prevent the fixing of prices, or to regulate prices, whereas the subject matter under consideration in the pending bill is that of radio communication. The bill seeks to regulate the transmission of radio messages, whereas the amendment seeks to regulate the transportation of manufactured articles in interstate commerce into any State or Territory of the United States or between any State or Territory of the United States or from any foreign country, whereas the bill we have under consideration deals with radio communication.

The question of manufacture and sale and marketing of radio apparatus and devices, if the Chair understands the question clearly, is not under consideration and is not a part of the bill. The amendment proposes to regulate resale. It attempts to regulate the fixing of prices of radio apparatus entering into interstate and foreign commerce. It deals with the marketing of radio apparatus and not with the transmission of messages, whereas the bill deals with the transmission of messages and not with the marketing of apparatus.

It is true that on page 12 of the pending bill, in paragraph (g), all antitrust acts are made applicable to the manufacture and sale of radio apparatus in commerce. They are now subject to such laws without respect to whether that is carried in this bill or not, according to the judgment of the Chair; but this provision in no wise amends the various antitrust acts and is only used for the purpose of authorizing the revocation, if the Chair understands it correctly, of the license of the licensee convicted under such antitrust acts.

The Chair was given to understand this question would arise, and the Chair took time to look up the references. It is obvious that a mere reference to an act in a bill does not bring the act or any amendment thereof under consideration for amendment. To hold otherwise would permit any amendment of the Sherman or the Clayton Acts to be permitted in the consideration of this bill. The fact that the amendment was included in a prior bill, or substantially the same amendment, in former section 4 reported by the committee, does not affect the question here, since the committee may report a bill which has been referred to it in due course embracing different subjects, but this does not permit the offering of a new subject by way of amendment.

While the question enters only indirectly into the determination of the point of order, the fact that the general subject of the amendment admittedly belongs within the jurisdiction of the Committee on the Judiciary indicates the matter is foreign to the bill now under consideration. The subject matter of the amendment was referred to the Committee on the Merchant Marine and Fisheries only incidentally since a bill may not be divided for reference and the major portion related to radio, it was therefore referred to that committee.

While it is not necessary for the Chair to pass upon the question, there is considerable doubt as to whether the proposed amendment would even be germane to the antitrust act which relates to agreements in restraint of trade. The present amendment relates to resale, price agreements, without reference to the question of whether restraint of trade is involved or not, and therefore goes beyond the ordinary application of the antitrust acts.

The bill relates to radio communication. It gives the Secretary of Commerce the power to license radio stations, to fix wave lengths, to revoke licenses granted, and to regulate and to control, within the scope of the act if it does become an act, the transmission of messages by radio. It does not give the Secretary of Commerce any power whatever over the regulation or sale of manufactured articles transported in interstate commerce. The amendment relates to the manufacture and sale of radio equipment in the markets of the United States, and the Chair contends that the Secretary of Commerce has no jurisdiction over that subject, and most certainly they involve different subject matter from that contained in the bill.

The Chair therefore sustains the point of order.

Mr. O'CONNELL of Rhode Island. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Rhode Island offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. O'CONNELL of Rhode Island: On page 16, at the end of section 4, add the following paragraph:

"SEC. 4. It shall be unlawful for any person, firm, company, or corporation, in any manner or by any means, (a) to send or carry, or to cause to be sent or carried, from one State, Territory, or possession of the United States or the District of Columbia to any other State, Territory, or possession of the United States; or (b) to bring, or to cause to be brought, into the United States or into any of its Territories or possessions from any foreign country, any radio vacuum tubes or other radio apparatus or any of the parts of either, whether patented or unpatented, accompanied or then or at any time affected or impressed by or with any condition, agreement, instruction, obligation, or limitation, the purpose and/or effect of which is to fix the price at which the purchaser may resell the same, or to unlawfully prohibit or restrict the parties by whom or the purposes for which said tubes and apparatus or the parts thereof may be used."

Mr. LEHLBACH. Mr. Chairman, I make the same point of order that I made to the previous amendment.

Mr. O'CONNELL of Rhode Island. Will the gentleman reserve his point of order?

Mr. LEHLBACH. It is now 25 minutes after 3, and we want to complete this bill this afternoon.

The CHAIRMAN. The Chair will say to the gentleman from Rhode Island that this is exactly the same amendment as that which was offered by the gentleman from Tennessee and ruled on, except the insertion of the word "unlawful," on line 24, page 14.

Mr. LEHLBACH. We want to pass this bill this afternoon, because our right to Calendar Wednesday expires to-day.

Mr. O'CONNELL of Rhode Island. I am as anxious to pass the bill as is the gentleman. I think it is imperative that we should conclude it to-day.

Mr. LEHLBACH. I will say to the gentleman that I shall insist on the point of order, no matter what is said or what has been agreed to by anybody.

Mr. O'CONNELL of Rhode Island. Nothing has been agreed to by anyone, so far as I know.

Mr. LEHLBACH. Mr. Chairman, I will reserve the point of order for three minutes.

Mr. O'CONNELL of Rhode Island. Mr. Chairman, I have inserted the word "unlawfully," because the gentleman from New Jersey [Mr. LEHLBACH] made a point of order to the previous amendment offered by Judge DAVIS on the ground that it changed the patent law. I agree with him that it does change the patent law in some particulars. I am not willing that the patent law should be changed by any special act. I think if we are going to change it we should change it directly and not enact legislation which will discriminate against the radio industry as distinguished from any other. When I put the word "unlawfully" in there I take away the effect of the amendment of Judge DAVIS whereby the patent laws of the United States will be changed, and I call the Chair's attention to the fact that the committee approved this section previously, and the radio people, who are opposed to this section now, have said that they are perfectly satisfied with the amendment as I offer it. In the brief that they have submitted to every member of the committee, on page 12, they say:

Under all the foregoing circumstances we request the committee to reconsider the advisability of including section 4.

Then they point out how it can be changed so as not to change the patent laws, and they say this can be done by inserting at the end of line 21 "except as may be lawful under the patent laws of the United States," or by inserting in line 24, page 14, next preceding the word "prohibit" the word "unlawfully."

Now, I have used the word which they use, which will not affect the patent laws, which was the chief ground on which the radio industry have objected to this bill, and one of the grounds suggested on the point of order to the last amendment. So far as the provision in regard to retail prices is concerned, they say here in this brief that they have absolutely no objection to that, because by a decision of the Supreme Court of the United States it has already been decided that there can be no price fixing of these articles.

Mr. LEHLBACH. Mr. Chairman, I renew the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WINGO. Mr. Chairman, I offer an amendment. On page 16, line 13, strike out the period and insert this language, "contrary to all laws of the United States relating to unlawful restraint and monopolies and combinations, contracts, or agreements in restraint of trade." That is the same language which is found on page 12, lines 6, 7, and 8.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. WINGO: On page 16, line 13, after the word "commerce," strike out the period and insert: "contrary to all laws of the United States relating to unlawful restraint and monopolies and to combinations, contracts, or agreements in restraint of trade."

Mr. WINGO. Mr. Chairman, I am moved to offer that amendment by the conclusion that the Chair reached in sustaining the point of order, which the Chair had to reach in order to sustain the point of order made to the amendment of the gentleman from Tennessee. The Chair held that while it is true that on page 12 it was stated that "all laws of the United States relating to unlawful restraint and monopolies and combinations, contracts or agreements in restraint of trade are hereby declared to be applicable to the manufacture and sale of and to trade in radio apparatus"—he said that was only mentioned in order to guide the Secretary of Commerce in deciding on applications. In other words, if that is accepted by the committee, you are attempting to do in this act what you did in the packers act. You lawyers will remember that when the packers act was up I asked the committee whether the bill took them out of the control of the antitrust law and penalized them only when they violated an order of the Secretary of Agriculture.

Some members of the committee contended that the antitrust laws would still apply. Others on the committee contended that they could only be indicted criminally after they had been warned by the Secretary of Agriculture to abstain from some practice that was in restraint of trade. Unless my recollection serves me badly, one district court adopted the latter conclusion. If the Chair is correct in its ruling, and the committee has acquiesced in it, then it will mean that the only restraint there is in the control of radio apparatus upon these men who are engaged in transmitting radio messages through the air and in selling the instruments, the physical properties necessary to contact with the ether and do that thing, is the Secretary of Commerce, a bureaucrat; and you are going to substitute the control of a bureaucrat for that of the criminal laws and the orderly processes of the courts.

The bill does cover radio transmissions primarily, but how are you going to transmit radio messages? Two things are necessary. One is ether, about which in the first section you made a stump speech which is said to have originated in the Senate in which you declare that the ether is the sole property of the common people of the United States, and the other is the physical property. The only way, I say, to handle the transmission of messages is to control and regulate these two things, the ether and the physical properties, the tubes, the apparatus, and so forth. You say here in this section that you want to prevent a certain monopoly. My friend from New Jersey [Mr. LEHLBACH], who is generally very alert and knows what is in the bill, says that only applies to that which covers messages from foreign territory. The gentleman has overlooked the provisions of the bill in section 4.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. WINGO. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WINGO. Mr. Chairman, if the gentleman will examine it carefully, he will find that section 4 covers both domestic transmission and foreign transmission, interstate and interforeign. On page 14, section 4, in line 16, it provides that no persons, firm, and so forth, now or hereafter engaged in the business of transmitting or receiving for hire radio messages or signals—

(a) between any place in any State, Territory, or possession of the United States, or in the District of Columbia—

And that is domestic, or—

(b) between any place in any State, Territory, or possession of the United States, or in the District of Columbia and any place in any foreign country.

Mr. LEHLBACH. But they are not prohibited anything. That is a description of the persons—persons (a) and (b). They are prohibited from acquiring property which will allow them to stifle competition in foreign radio communication.

Mr. WINGO. Oh, no; it covers both; but if I take the gentleman's own contention, he admits himself out of court and dissents from the decision that the Chair just made on the point of order. I prefer, however, to take the correct conclusion that it covers both; but let us assume it covers that. Does the gentleman contend for a moment that foreign transmission of messages with our outlying possessions and the control of the physical properties referred to are not going to be so intimately interwoven with the domestic transmission of messages that they are one and the same kindred subject?

Whichever interpretation you take, that of the gentleman from New Jersey or mine, do you intend to restrain monopolies in restraint of trade and make the antitrust laws applicable to this proposition? The Chair has ruled that the antitrust laws of the United States do not apply, and they are not applicable to this; that it is out of order to make it unlawful to engage in a monopoly of physical properties covered in this bill; that the object of this bill is not to regulate monopolies, because they say that an amendment that will prescribe penalties and declare it unlawful under the antitrust laws is out of order. How are you going to stop it? They will answer you and say, "We are going to do it by the control of a bureaucrat."

Gentlemen, I care very little about radio, I do not care to use it, but I am against the continual tendency of the Congress of the United States and of some people to eliminate the orderly processes of legislation by the Congress of the United States and substituting for it the regulation, the sweet changing whim of changing personalities that occupy some bureaucratic posi-

tion. The people have a right to know what the law of the land is, and they can not know it when that law lodges in the brain and the conception of an autocratic bureaucrat, who may be here to-day and gone to-morrow, who may be replaced to-morrow by one with a different philosophy of Government, one who belongs to a different party, one who comes from a different section and has different prejudices that may affect his judgment and becloud his vision, and, perchance, sometimes corrupt his actions. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas.

The question was taken; and on a division (demanded by Mr. WINGO) there were—ayes 39, noes 63.

So the amendment was rejected.

The Clerk read as follows:

SEC. 5. All matter broadcast by any radio station for which service, money, or any other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, firm, company, or corporation, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person, firm, company, or corporation.

Mr. BLANTON. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BLANTON: Page 16, line 20, after the word "corporation," strike out the period and insert a colon and add the following: "*Provided*, That any person who, over any radio, shall, affecting the character and standing of another, use derogatory language, which, under the laws of any State into which such language is transmitted constitutes (a) slander or (b) libel were such language in writing, shall constitute (1) the offense of criminal slander, which may be prosecuted either in the State from which such language was broadcast, or in any State into which such language was transmitted, and upon conviction, said offender shall be punished by a fine of not less than $100 and not more than $1,000, or by confinement in jail for a term not less than 30 days and not more than one year, or by both such fine and imprisonment; and (2) civil slander, for which the person aggrieved may make the offender respond in appropriate damages, under the measure of damages prevailing in such State."

Mr. BLANTON. Mr. Chairman——

Mr. LEHLBACH. Will the gentleman yield for a question?

Mr. BLANTON. I will.

Mr. LEHLBACH. Will the gentleman so modify his amendment as to make the law of the place where the utterance takes place applicable instead of where the voice may be heard?

Mr. BLANTON. It is my opinion that either should apply. The gentleman will remember when I made my first argument on this question yesterday I then had the amendment drawn in the way the gentleman from New Jersey suggests, but when I began to talk to some of my colleagues here several of them called attention to the fact that they would prefer for it to be deemed an offense whenever anyone broadcasting should transmit the unauthorized language into any State when, if published there, would in that State constitute either actionable slander or libel. And it was at the suggestion of several of my colleagues that I reframed the amendment and offered it as it appears printed in yesterday's RECORD, which is in identical form as I have now offered it. It is better to have it in specific form, constituting a specific Federal offense, with a specific punishment, than to have it uncertain.

Mr. LEHLBACH. Does the gentleman want to bring about this: If I, in the State of New Jersey, say words in New Jersey which the laws of New Jersey say I may say, can the State of Indiana make laws to punish me for what I say in New Jersey?

Mr. BLANTON. No; the State of Indiana can not do it. But the Federal Government of the United States can, and it should do it. Anyone in New Jersey who for the purpose of injuring the good reputation and standing of some one living in Indiana should not be permitted to hide himself behind the State line in New Jersey, and by the use of a powerful radio transmit into and throughout the State of Indiana false, slanderous, and libelous statements which unjustly and wantonly ruin the good name and standing of a citizen of Indiana, and then escape punishment simply because the laws of New Jersey might permit it. The laws of Indiana may not permit such slander, yet without a Federal statute there would be no way on earth for the Indiana citizen to hold the offender in New Jersey responsible.

In my home State of Texas it is not against the law for anyone verbally by word of mouth to make false and slanderous charges about a man. If made about a woman they constitute slander and are actionable both civilly and criminally. But if they are made about a man it is no offense. To constitute an offense when used about a man, they must be published in print or in writing. Now, suppose that it is an offense in New Jersey for one verbally by word of mouth to make false and slanderous statements about the character and standing of another. Would it be right for me to hide behind my State line and behind my own State law, and by use of a powerful radio maliciously, falsely, and slanderously transmit into and throughout the State of New Jersey unjust statements that would ruin the standing of some New Jersey citizen? Certainly not. Yet without a Federal prohibition, such as this amendment, I could from Texas thus ruin people generally with impunity.

Mr. LEHLBACH. As a matter of fact, a person would have to know not only the statutes of his own home State but the statutes of all of the 48 States.

Mr. BLANTON. It would not be a bad idea for every person to assume that it is against the law and that he has no right to broadcast into other States slanderous and false statements about citizens of other States that ruin good reputation and standing.

Mr. LOZIER. Is it not fundamental that a libel sent by mail is punishable at the place where the letter is directed and not where it is mailed?

Mr. BLANTON. It is fundamental that such a libel is punishable either where it is mailed or the place to which it is sent. It is the circulation, after all, which is the main ingredient of the offense.

Mr. LOZIER. Is it not true that a person can stand on one side of a State line and speak over the State line and commit a slander, and ought to be punished in the jurisdiction to which he sends the defamatory message?

Mr. BLANTON. Yes. It is certainly true that one who deliberately, for the malicious purpose of injuring another, transmits by radio false and slanderous language affecting the good standing of another across State lines and into and throughout other States by Federal statute ought to be punished, either in the place where it was uttered or the place to which it is sent—in either of the places, whichever one takes jurisdiction of the man first.

Mr. NEWTON of Minnesota. It is wherever the matter is published, whether libel or slander.

Mr. BLANTON. Yes; and where published means where circulated. I speak in Texas and it goes to Minnesota, and my language is heard distinctly in Minnesota and my libel should be punished in that State or in Texas. I desire to say that I submitted this amendment to the chairman and to his committee, and I understand they are not objecting to this amendment.

Mr. FREE. We are objecting to it in its present form.

Mr. BLANTON. How does the gentleman want it?

Mr. FREE. So it applies to the law of the State where the speech is made.

Mr. BLANTON. That is not the way many other Members want it.

Mr. FREE. The gentleman has the punishment applying to every State.

Mr. BLANTON. I think that it should be made a Federal offense and made punishable in any State into which the slanderous language is maliciously transmitted. That is where the injury is done. For it is where the injured party's good reputation is ruined.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BLANTON. I ask for five additional minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BLANTON. I shall be glad to change it in any reasonable manner, in order to get it passed, so long as it is made an offense for one to transmit into another State false and slanderous language. How does the gentleman want it changed?

Mr. FREE. Say it is a violation of the law of the State in which the statement is made.

Mr. BLANTON. That would destroy the value of the amendment, but I think that I can change it some to advantage. I ask unanimous consent to modify my amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to modify his amendment. Is there objection?

Mr. WINGO. I object. I am opposed to the whole principle.

Mr. BLANTON. I will then ask for a vote on this amendment in its present form without change in a few moments.

Surely, Mr. Chairman, it is not the contention of any Member on this floor that because it happens in some States not to be a violation of law for one to verbally use false and malicious language about a man, slandering his good name

and reputation, that one in that State may use nationally the modern powerful radio, and transmit into other States where it is against the law, language that is false, language that is malicious, language that is wanton, language that per se is ruinous, and language that unjustly destroys the good name, reputation, and standing of a citizen in the other State, and then escape all punishment, and escape all pecuniary responsibility, simply because that particular State in which the slander is broadcast from has no law against it? Surely that is not the contention of any Member?

This modern radio broadcasting is not a State matter. It is a national matter. For it goes into every State. It is bigger than any one State. That is one function of the Federal Government—to protect the citizens of one State against impositions unlawfully made upon them by citizens in other States, and to provide a Federal tribunal where such interstate controversies may be heard.

Now, suppose you do not pass this amendment; what protection have the people in any State from slanderous attacks which people in some other State may desire to make upon them? If one citizen of St. Louis wanted to slander another citizen in St. Louis he could go to Dallas, Tex., hire the radio, and send his poisonous language reeking with malice and falsehood into St. Louis, and then be guilty of no offense whatever.

I want to say this, gentlemen: This is one of the most important questions that can affect the whole people of this Government. It affects the seat in this House of every Congressman here. We are all to go home soon to our primaries. We are all to be elected in November in the general election. The night before the primary in your State some of your enemies could induce somebody in some other State, say 50 miles or 100 miles from where you live, to make derogatory statements about you in such a way that it might absolutely ruin you in the next day's primary or election, and they would be absolutely impervious to punishment, because now there is no law exactly covering the offense.

Do you want to take chances on that? Of course, they could not hurt you more than temporarily, but you would be defeated for office, and there would be no way to prevent the defeat. It would have already been done the night before your primary. When somebody the night before election puts a false statement out about you that injures your standing in the community, it is too late to remedy it when the primary is over, because your opponent has received the votes necessary to cut you out of the election. You could thus ruin a gubernatorial candidate; you thus could ruin a presidential candidate, or you could ruin a candidate for any elective office.

Mr. FREE. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Yes.

Mr. FREE. Is the gentleman willing to make this amendment subject to the law of the State in which the offense is committed?

Mr. BLANTON. I am willing to reframe it in any way that does not destroy the value of it and the primary purpose of it. How could you offer a better one? I take it for granted that some amendment such as mine should go into this bill to protect the people.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Yes.

Mr. WINGO. The gentleman is talking about a public man being ruined by what somebody might say about him. Does the gentleman contend that the State laws are powerless and can not be enforced against slander?

Mr. BLANTON. In Texarkana a street is the State line between Arkansas and Texas. A man could stand near the State line dividing one of these States from the other, as, for instance, 20 miles from Texas over in the gentleman's State, and from the State of Arkansas he could radio over into Texas a message about some Texas man running for office, running for governor, or for Congress, or for any other office in Texas, and he could charge him with this or that or anything that he pleased that would excite public sentiment against that man in the election, and so he could defeat and ruin him; and one from Texas could ruin and defeat a candidate over in Arkansas, for in my State you can not be convicted in court for what you say verbally about any man. It has been decided that it is not libel and not actionable; and for these slanders there could be no punishment by State law for want of jurisdiction of the offender.

Mr. CELLER. Could you not charge a man with crime if he has committed a crime?

Mr. BLANTON. No; because it would not be a crime. The only way to make such contemptible action a crime is to do it by Federal statute, by such an amendment as I am now proposing. And I sincerely hope that my colleagues will adopt it. Is it not our intention to protect the citizens of every State against slander and libel which may come from others in other States into their own State about them? This is a national question, and can be settled only by a Federal law.

Mr. WINGO. The gentleman should come into my State.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. BLANTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BLANTON. Mr. Chairman, I ask for a division.

The CHAIRMAN. The gentleman from Texas asks for a division.

The committee divided; and there were—ayes 42, noes 27.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 6. (A) The actual operation of all transmitting apparatus in any radio station for which a station license is required by this act shall be carried on only by a person holding an operator's license issued hereunder. No person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Secretary of Commerce.

(B) The Secretary of Commerce, in his discretion, may grant special temporary operator's licenses to operators of radio apparatus under such regulations, in such form and under such conditions as he may prescribe whenever an emergency arises requiring prompt employment of such an operator. He may also, in his discretion, grant such temporary licenses to students and to persons engaged as instructors and in conducting experiments for the development of the science of radio communication.

(C) An operator's license shall be issued by the Secretary of Commerce only in response to a written application therefor addressed to him, which shall set forth (a) the name, age, and address of the applicant; (b) the date and place of birth; (c) the country of which he is a citizen and, if a naturalized citizen of the United States, the date and place of naturalization; (d) the previous experience of the applicant in operating radio apparatus; and (e) such other facts or information as may be required by the Secretary of Commerce. Every application shall be signed by the applicant under oath or affirmation.

(D) An operator's license shall be issued only to a person who in the judgment of the Secretary of Commerce is proficient in the use and operation of radio apparatus.

Mr. CELLER. Mr. Chairman, in the confusion and noise that prevailed I was unable to hear at what point the Clerk was reading. I wanted to offer an amendment to section 5 on page 16 of the bill.

The CHAIRMAN. The Clerk is now reading from section 6.

Mr. CELLER. I ask unanimous consent, Mr. Chairman, to go back.

The CHAIRMAN. The gentleman can not do that at this stage. The Clerk will proceed.

The Clerk continued the reading of the section, as follows:

(E) An operator's license shall be in such form as the Secretary of Commerce shall prescribe and may be suspended by him for a period not exceeding two years upon proof sufficient to satisfy him that the licensee (a) has violated any provision of any act or treaty binding on the United States which the Secretary of Commerce is authorized by this act to administer or by any regulation made by the Secretary of Commerce under any such act or treaty; or (b) has failed to compel compliance therewith by any person under his supervision; or (c) has failed to carry out the lawful orders of the master of the vessel on which he is employed; or (d) has willfully damaged or permitted radio apparatus to be damaged; or (e) has transmitted superfluous radio communications or signals or radio communications containing profane or obscene words or language; or (f) has willfully or maliciously interfered with any other radio communications or signals.

(F) An operator's license may be revoked by the Secretary of Commerce upon proof sufficient to satisfy him that the licensee was at the date his license was granted to him, or is at the time of revocation, ineligible or unfit for a license.

Mr. GRIFFIN. Mr. Chairman, I move to strike out the entire section.

Mr. CELLER. Mr. Chairman, I ask unanimous consent to return to section 5, to permit me to offer an amendment. I shall be brief.

The CHAIRMAN. The gentleman from New York asks unanimous consent to return to page 16, section 5, to enable him to offer an amendment. Is there objection?

Mr. SCOTT. I am sorry; this is the first time I have interposed any objection. It is now 5 minutes to 4 o'clock. It is Saturday afternoon, and this committee is given only two days in which to finish this bill. I presume that the Members are wide-awake.

Mr. CELLER. Well, I serve notice that I shall demand the engrossed copy of the bill.

Mr. GRIFFIN. Mr. Chairman, I move to strike out the entire section, consisting of the matter extending from line 21, on page 16, down through page 17, and page 18 to and including line 22.

The CHAIRMAN. The Clerk will report the motion of the gentleman from New York.

The Clerk read as follows:

Amendment offered by Mr. GRIFFIN: Page 16, beginning with line 21, strike out all of section 6.

Mr. GRIFFIN. Mr. Chairman, that includes the entire section. I move to strike it all out for this reason: We are engaged in creating the machinery for the regulation of one of the most important and most promising industries. It has a great future. In creating that machinery it occurs to me that we ought to build simply. We ought to develop the machinery for the regulation of this great industry by a process of evolution. We ought not to attempt to cover the whole field and fill up this bill with a lot of rubbish in the way of regulations requiring a big bureau and intricate filing systems.

I ask my colleagues to look at what this section does. It provides that all operators of broadcasting stations must have licenses.

Why should such an operator be required to procure a license? We have locomotive engineers running great trains all over the country; trackwalkers, signalmen, and other employees engaged in great undertakings, where human life is at stake and where there is great responsibility, who are not required to submit to this license nuisance. I ask the gentleman proposing this bill: What is the earthly reason for requiring the licensing of an operator at a broadcasting station? Do you not suppose that the employer of that operator knows whether he is efficient or not? Is it not his duty and his obligation to look after the character of the men he employs and whether or not they are efficient? Why should the United States Government assume this responsibility and undertake to establish a bureau, with numerous clerks, filing cases, and an elaborate mechanism, in order to provide help for the operating stations all over the United States? The next logical thing in order, with this precedent established, will be to require Federal licenses for telephone and telegraph operators. It would surely be just as reasonable.

This whole section and all of these paragraphs ought to be eliminated from the bill. Let the people who control the stations select their own operators and use their own judgment.

Mr. EDWARDS. Will the gentleman yield?

Mr. GRIFFIN. Yes.

Mr. EDWARDS. The owners have to register in order to get a license, do they not?

Mr. GRIFFIN. Yes; and that should be sufficient.

Mr. EDWARDS. And we could keep track of it in that way?

Mr. GRIFFIN. Yes; by requiring the registration of the station owners, and that is enough. Why go into their business and into their private arrangements with the men who run the broadcasting machines? I think the thing is an absurdity.

Mr. BLANTON. Will the gentleman yield?

Mr. GRIFFIN. Yes.

Mr. BLANTON. Does not every operator of a moving-picture machine have to get a license?

Mr. GRIFFIN. Locally, yes; but he does not get a license from the United States Government. This is no business for the Federal Government to be engaged in.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. WHITE of Maine. Mr. Chairman, I rise in opposition to the amendment. This section is an enlargement of the provisions of existing law. Since 1912 all radio operators have been required to be licensed. It is not only the law here but, so far as I know, it is the law in every country where there is radio. This provision comes before the House with the unanimous approval of every witness, so far as I recall, who appeared before our committee. It comes here with the unanimous sanction of the committee, and I hope it will stay in the bill.

The question was taken, and the amendment was rejected.

Mr. CELLER. Mr. Chairman, I make the same request I made a few moments ago to return to section 5 in order to offer an amendment. I will not argue it.

The CHAIRMAN. The gentleman from New York asks unanimous consent to return to section 5 in order to offer an amendment. Is there objection?

Mr. BLANTON. Mr. Chairman, reserving the right to object, is the sole purpose of going back just for the purpose of offering this one amendment and for no other purpose?

The CHAIRMAN. The Chair does not know what the purpose is.

Mr. BLANTON. If it is for any other purpose, I shall object.

Mr. CELLER. It is for no other purpose. It is for the sole purpose of going back to section 5 and offering this amendment to section 5, the whole of section 5, and there will be no argument on my part.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows:

Amendment offered by Mr. CELLER: Page 16, strike out all of section 5, which section 5 shall read as follows:

"All matter broadcast by any radio station for the publication or broadcasting of which service money or other valuable consideration is, directly or indirectly, paid or promised to or charged or accepted by the station so broadcasting, from any person, firm, company, or corporation, shall at the time the same is so broadened be plainly announced as 'advertising.' The owner or operator of any such radio station publishing or broadcasting such matter without so designating or announcing the same as 'advertising' shall, upon conviction in the United States district courts, be fined not less than $50 or more than $500. Jurisdiction is hereby conferred on the United States district courts for the trial of prosecutions of such violations."

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 8. For the purposes of this act the United States is divided into five zones, as follows: The first zone shall embrace the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, the District of Columbia, Porto Rico, and the Virgin Islands; the second zone shall embrace the States of Pennsylvania, Virginia, West Virginia, Ohio, Michigan, and Kentucky; the third zone shall embrace the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Mississippi, Arkansas, Louisiana, Texas, and Oklahoma; the fourth zone shall embrace the States of Indiana, Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri; and the fifth zone shall embrace the States of Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, California, the Territory of Hawaii, and Alaska.

That a commission is hereby created and established to be known as the Federal radio commission, hereinafter referred to as the commission, which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The membership of the commission shall consist of resident citizens at the time of appointment of each of the five respective zones. No member of the commission shall be financially interested in the manufacture or sale of radio apparatus or in the transmission or operation of radio telegraphy, radio telephony, or radio broadcasting. Not more than three commissioners shall be members of the same political party. The first commissioners shall be appointed for the terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed.

The first meeting of the commission shall be held in the city of Washington at such time and place as the chairman of the commission may fix. Whenever the Secretary desires to refer to the commission for its decision any matter authorized to be submitted, he may call subsequent meetings thereof at such places in the United States and at such times as he may deem proper.

The Secretary of Commerce may refer to the commission any applications for licenses or for the use of wave lengths or for power in connection therewith, or any other matter the determination of which is vested in him under the terms of this act. Any person interested in or aggrieved by any decision of the Secretary of Commerce may appeal therefrom to the commission. The commission shall hear appeals or references by the Secretary of Commerce de novo, and is authorized to adopt general rules and regulations fixing the time and form of appeals and governing the proceedings before it. Any person interested in or aggrieved by any decision of the commission with respect to the granting or refusal of a permit or license or the revocation of a license may appeal therefrom to the Court of Appeals of the District of Columbia. Notice of said appeal shall be given by service upon the secretary of said commission, prior to the filing thereof, of a certified copy of said appeal and the reasons therefor. Procedure upon said appeal shall be the same as in cases of appeal from decisions of the Secretary of Commerce.

The commission shall appoint a secretary, who shall receive reasonable compensation in accordance with the provisions of the classifica-

tion act of 1923. It shall have authority to employ and fix the compensation of such clerks, experts, examiners, and other employees as it may from time to time find necessary for the proper performance of its duties and as from time to time may be appropriated for by Congress.

The members of the commission shall receive a compensation of $25 per day for each day's attendance at sessions of the commission and while traveling to and from such session, but not to exceed 120 days' pay in any calendar year, and also their necessary traveling expenses.

Mr. LARSEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LARSEN: Page 21, line 16, after the word "commissioners," strike out "who shall be." Also at the end of line 17 strike out the period, insert a comma, and the following: "And one of whom the President shall designate as chairman."

Mr. LARSEN. Mr. Chairman and gentlemen of the committee, this amendment is offered purely and simply to clarify and make this section completely workable. The bill as originally drafted provided that the President should designate one of the commissioners as chairman.

Mr. SCOTT. Will the gentleman yield?

Mr. LARSEN. Yes.

Mr. SCOTT. I think the gentleman's amendment is very appropriate. I have previously discussed with the gentleman from Tennessee [Mr. DAVIS] the very subject that the gentleman is now discussing. If the gentleman's amendment should prevail, it would make unnecessary the amendment which was discussed with me by the gentleman from Tennessee [Mr. DAVIS] a few moments ago. I should be glad to have the gentleman in his five minutes consider the suggestion which has been offered by the gentleman from Tennessee in order to see which would accomplish the best results in connection with the language of the bill.

Mr. LARSEN. I shall be very glad to do that, although this is the first I have heard of the amendment proposed by the gentleman from Tennessee [Mr. DAVIS].

The original bill, however, provided that the President should designate one of the members as chairman, and the language on page 22 of the bill provides that the first meeting of the commission shall be held at such time as the chairman may designate. Now, if we have nobody designated chairman, of course, there would be nobody to call a meeting. Therefore, I think it is necessary to have one of the persons appointed by the President designated as chairman.

The purpose in striking out the three words in the preceding line is simply to improve the phraseology and, as I understand it, the grammatical construction of the section.

I do not know the provisions of the amendment to be offered by the gentleman from Tennessee.

Mr. DAVIS. I will state to the gentleman that the amendment which I had prepared and had submitted to the members of the committee on the other side—and which, as I understood, they had agreed to—provides for striking out, at page 22, lines 9 and 10, after the word "Washington," the words "at such time and place as the chairman of the commission may fix" and inserting in lieu thereof the following language:

As soon after their appointment and confirmation as possible, at which time the members of the commission shall elect one of their number chairman and otherwise organize.

Then that would be followed by an amendment, which would follow the amendment just read, if adopted, to insert:

Thereafter the commission shall convene at such times and places as a majority of the commission may determine, or upon call of the chairman thereof or the Secretary of Commerce.

Mr. LARSEN. Mr. Chairman, this is the first time I have heard of that amendment. The only objection I see to the amendment is that this commission is composed of five men who are to be taken from the respective districts embraced in the United States. Necessarily, some of them will come from a region far west of the Mississippi River, others will come from the North, and some from the South. The first meeting which would be called would probably be simply for the purpose of electing a chairman, according to the amendment offered by the gentleman from Tennessee. I think that would be an unnecessary expense. It would be an unnecessary meeting. The President, under the amendment which I have offered, would simply designate the chairman, and when the chairman is designated he may not be needed for three or even for six months.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. LARSEN. Mr. Chairman, I ask for three additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOORE of Virginia. Will the gentleman yield to me?

Mr. LARSEN. Yes.

Mr. MOORE of Virginia. Might not the gentleman's proposition involve this difficulty? Let us suppose his amendment is approved and the President appoints as the chairman a member of this commission who is to serve for a term of three years. When his term expires, what provision would there be for the appointment of a chairman, unless such appointment is left to the commission itself?

Mr. LARSEN. I do not know that that is really material; as I understand the section, I think probably after the first meeting they would have the right to organize and elect their own chairman, but it seems to me, whether that is true or not, it is nothing but fair that the President should designate the first chairman of the commission. For that reason I prefer the amendment which I have offered to the amendment to be offered by the gentleman from Tennessee; otherwise, I would be glad to accept his amendment. I think the amendment of the gentleman from Tennessee incurs an unnecessary expense and would necessitate an unnecessary meeting. As stated, they may not be called together for six months, and they ought to be in position where they can be called together at any time needed.

Mr. Chairman, I would like to offer an amendment to my own amendment and I therefore ask unanimous consent to modify my amendment by adding:

Provided, That chairmen thereafter selected shall be chosen by the commission itself.

The CHAIRMAN. Is there objection to the amendment offered by the gentleman from Georgia to his own amendment?

There was no objection.

Mr. LARSEN. Now may the amendment be read as amended?

The CHAIRMAN. The Clerk will read the amendment as modified.

The Clerk read as follows:

Amendment offered by Mr. LARSEN of Georgia: Page 21, line 16, after the word "Commissioners" strike out the words "who shall be"; also at the end of line 17, strike out the period, insert a comma, and add the following: "one of whom the President shall designate as chairman: *Provided*, That chairmen thereafter elected shall be chosen by the commission."

Mr. DAVIS. Mr. Chairman, I wish to be heard in opposition to the amendment.

This involves a rather curious situation, different from anything we have ever had, that the President shall appoint the first chairman of the commission who, under the provisions of the bill, may be appointed for anywhere from three to seven years, but thereafter the commission to elect its own chairman. I think the commission should elect one of its members as chairman from the beginning, just as is done in the case of the Interstate Commerce Commission and the Federal Trade Commission. For instance, in the Interstate Commerce Commission they have adopted the custom of electing one of their number chairman to serve for a year, and then rotating the chairmanship among the members.

Mr. SCOTT. Will the gentleman yield?

Mr. DAVIS. Yes.

Mr. SCOTT. I am inclined to agree with the gentleman's suggestion, and I believe the gentleman from Georgia [Mr. LARSEN] would not object to the gentleman offering an amendment which would correct that situation, and prevent the President from selecting a member of the board who would occupy the position of chairman for the period suggested.

Mr. LARSEN. I would not object to an amendment providing that the President shall name the chairman who shall serve for a term of two years.

Mr. SCOTT. And may I say further to the gentleman, I think if the amendment of the gentleman from Georgia [Mr. LARSEN], is accepted, the second amendment which the gentleman from Tennessee [Mr. DAVIS] suggested to me a few moments ago, would still be in order and ought to be inserted, which would allow the Secretary of Commerce or the chairman to call the meeting.

Mr. DAVIS. Yes.

Mr. SCOTT. Otherwise, you might have an arbitrary chairman who refused to call a meeting.

Mr. DAVIS. Yes; as suggested by the gentleman from Michigan the amendment under consideration still does not alter the situation covered by my second amendment.

Mr. SCOTT. No.

Mr. DAVIS. But let me see if I understand the gentleman's suggestion with regard to the amendment of the gentleman from Georgia [Mr. LARSEN]. Do I understand that the gentleman agrees with me that the chairman should be elected by the commission?

Mr. SCOTT. Yes; I do not think the chairman ought to be selected by the President and authority conferred upon the President to select a chairman who would hold that position possibly for a period of seven years. I do not believe that ought to be done.

Mr. DAVIS. I agree with the gentleman. Here is another thing: The reason urged by the gentleman from Georgia was that under my proposed amendment it would be necessary for this commission to convene and organize. That is important, if they are to perform any duty. All appeals would come to that commission and references from the Secretary. They are certainly going to have some record. When at home, scattered throughout the different sections of this country, there would be nobody to receive communications, official or otherwise, so that it would be imperative that they should elect a secretary who could perform these functions and notify them.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. DAVIS. I ask for three minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. DAVIS. It would be important that that secretary should be elected; and consequently I do not think there is anything in the gentleman's point that it would be more economical to adopt his amendment.

Mr. LARSEN. The gentleman will remember that this is a bipartisan commission. There will be three members who are Republicans, and they will elect anybody they want for chairman. Let the President appoint the chairman and be done with it.

Mr. DAVIS. It would naturally result that the party in power would elect the chairman, for the reason that the majority of the commission would be members of that party in power. But I was not looking at it at all from a political standpoint. It is a question of following the practice that has obtained in respect to other commissions. It is a matter of principle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was agreed to.

Mr. EATON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EATON: Page 22, line 19, after the word "person," insert the words "firm, company, or corporation."

Mr. SCOTT. Mr. Chairman, I do not think there will be any objection to that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey.

The question was taken, and the amendment was agreed to.

Mr. SCOTT. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Amendment offered by Mr. SCOTT: Page 23, line 10, strike out the word "shall" and insert the word "may"; also strike out in line 10 the words "who shall"; also strike out lines 11, 12, and 13 down to the word "such" and insert in lieu thereof the word "and."

Mr. SCOTT. Mr. Chairman, may I say to the committee that this amendment is suggested by a gentleman whose judgment is respected by this House, the present chairman of the committee, and there are other good reasons why the amendment should be adopted.

The CHAIRMAN. The Chair suggested this amendment because under the language of the section it is mandatory to appoint a secretary. This amendment is simply to clarify the financial side of the transaction.

Mr. BLACK of Texas. Does the gentleman from Michigan think the language as amended will be sufficient to insure that the employees will be appointed under the civil service? I will say to the gentleman that generally in acts of this kind in creating a commission it is usual to specifically state that they shall be appointed under the civil-service rules.

For example, in the act creating the Federal Trade Commission it said with the exception of the secretary and clerk to each commissioner, the attorneys, and such special experts and examiners as the commission from time to time found necessary, all the employees of the commission should be under the classified civil service.

I will say that what I want to make certain is that they shall be under the civil service. It is the custom ordinarily to use affirmative language in these bills putting them under the civil service.

Mr. LEHLBACH. I think the language employed in the Federal Trade Commission act was to except those people specifically rather than put the rest of them in.

Mr. BLACK of Texas. The gentleman may be correct in that understanding of the language; and if the committee is certain that the altering of the language as suggested by the amendment will insure what we have in mind, that is all that is necessary.

Mr. COOPER of Wisconsin. Mr. Chairman, I want to ask the gentleman from Michigan [Mr. SCOTT] if that will leave it so that the commission may be without a secretary?

Mr. SCOTT. No; it does not. Under the language as it was originally in the bill the commission would be obliged to appoint some person to act as secretary.

Mr. COOPER of Wisconsin. But I can not conceive of a commission exercising public functions of this kind that ought not to have a secretary to keep a record of its proceedings.

Mr. SCOTT. The record of the proceedings will be down there in the Department of Commerce.

Mr. LEHLBACH. The language as amended will read:

The commission may appoint a secretary and such clerks, experts, examiners, etc., as may from time to time be necessary.

Mr. COOPER of Wisconsin. Does the gentleman think that a commission to exercise functions as important as those devolving upon this commission should go without a secretary and not have a record of its proceedings?

Mr. LEHLBACH. Does the gentleman from Wisconsin think it conceivable that any commission in this Government that may appoint a secretary will not appoint one?

Mr. COOPER of Wisconsin. I can not conceive of any reason for changing this mandatory provision requiring them to have a secretary and leaving it to their discretion, unless the gentleman thinks that sometimes they will not have a secretary. If they ought to have one, and, as the gentleman says, they will appoint one as a matter of course, why change it from "shall" to "may." I think it ought to be "shall."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The amendment was agreed to.

Mr. EATON. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. EATON: Page 22, line 25, after the word "person" insert the words "firm, company, or corporation."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. EATON. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. EATON: Page 23, line 3, after the word "of" insert the words "or the refusal to revoke."

Mr. SCOTT. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DAVIS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. DAVIS: Page 22, line 10, following the word "fix," insert: "The commission shall convene at such times and places as a majority of the commission may determine, or upon call of the chairman thereof, or the Secretary of Commerce."

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Tennessee.

The amendment was agreed to.

Mr. JONES. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. JONES: Page 23, line 4, after the word "Columbia," strike out the period, insert a comma, and add the following: "or in the case of a revocation of a license, the person, firm, company, or corporation interested or aggrieved may, in the alternative, appeal to the district court of the United States for the district in which such interested aggrieved person, firm, company, or corporation resides or has its principal place of business."

Mr. WHITE of Maine. Mr. Chairman, I reserve the point of order on the amendment.

Mr. JONES. This applies only to the revocation of a license.

Mr. WHITE of Maine. Has not this amendment been voted on already?

Mr. JONES. No; the other amendment applied to both the granting and the revocation of a license. This applies simply to the revocation of a license, and in addition to that it is to a different proposition altogether. The other paragraph to which a similar amendment was offered was on page 13, and the amendment to it involved also the striking out of additional language.

Mr. WHITE of Maine. I think the amendment has already been voted on, and I reserve the point of order.

Mr. JONES. Mr. Chairman, I think this amendment should be adopted. Of course, upon the question of granting licenses it may be well to give an appeal to the commission in Washington, but on the revocation of licenses, where a man in an outlying section has installed machinery and has gone to the expense of equipment for broadcasting, it seems to me he should be privileged to go into the district court of his residence.

Now, I want to say that would not involve much trouble, because I am informed there has been only one revocation of license since the existing law has been operating under a provision of this kind.

Mr. LEHLBACH. Mr. Chairman, I make the point of order that the amendment offered by the gentleman from New York [Mr. GRIFFIN] was an amendment which only went to an appeal from the revocation of the license. This amendment is out of order in that it has already been disposed of by the committee——

Mr. JONES. I desire to be heard on the point of order. On page 13, the chairman will remember, the Chair will notice that it says:

An applicant for a permit or license whose application is refused by the Secretary of Commerce, and any holder of a license revoked by the Secretary of Commerce.

It not only covered the refusal of a license and the revocation of a license, but also the paragraph in section 3; the previous amendment, if adopted, would have stricken out the language—

within 20 days after the filing of said statement by the Secretary of Commerce either party may give notice to the court of his desire to adduce additional evidence.

Mr. LEHLBACH. Mr. Chairman, I desire to say on the point of order that subsequent to that amendment the gentleman from New York [Mr. GRIFFIN] offered an amendment which was in substance the amendment now offered.

Mr. BEGG. Will the gentleman yield?

Mr. JONES. But if the same amendment is offered it is an entirely different paragraph which provides for a different kind of an appeal. The former provides for an appeal taken from the Secretary of Commerce. The latter paragraph applies to appeals to the commission and from the commission and involves an entirely different proposition.

Mr. WINGO. Do I understand that it is contended that because the same amendment is offered to another section of the bill——

Mr. JONES. But it is not the same amendment.

Mr. WINGO. But even if it were it would not be subject to the point of order.

Mr. JONES. This is different.

Mr. WINGO. It is an unheard of proposition to say because it is offered to another section of the bill it is out of order, even if that were true.

Mr. JONES. If that were true a point of order would lie to this paragraph because it is all covered in another section of the bill. But this is an entirely different proposition. Mr. Chairman, section 3, page 13, applies not only to an application and refusal of a license and to a revocation of a license, but it applied to appeals from the Secretary of Commerce. The one which the Chair has before him applies to appeals from the Secretary of Commerce to the commission, and also covers not only the application for a license, and the revoking of licenses, but also to any other matter, the determination of which is vested in the Secretary of Commerce under the terms of this Act.

The CHAIRMAN. The Chair is ready to rule. The Chair overrules the point of order.

Mr. JONES. Mr. Chairman, I would like to be heard on the merits of the proposition just for a moment. I will not even take the five minutes. Mr. Chairman, I understand it is very seldom the Secretary of Commerce has found it necessary to revoke a license. I understand while there are 250 applications for the issuance of licenses which he has not been able to grant because of the numerous applications, he has only found it necessary to revoke a license in one instance, so it is probable he will very seldom find it necessary to apply his power to revoke a license. In such a case if it is in some far-away section where there are small stations it is going to be impossible in some cases for the aggrieved person to come to Washington and present his case, whereas the Government has the district attorney and all the machinery of the courts by which the Government may present its case. I believe, therefore, my amendment will protect the rights of the Government in cases of that kind, and at the same time enable all parties to have a fair hearing. Since I have limited this amendment simply to the revocation of a license, the committee should agree to it.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 22, line 25, after the word "it," insert "Decisions of the commission, whether upon appeals or references, shall be binding upon the Secretary of Commerce and the other parties unless such decisions be reversed or modified by the court on appeal."

Mr. SCOTT. We have not reached that point yet.

Mr. DAVIS. Yes. It is on page 22, line 25.

The CHAIRMAN. The Chair informs the committee that the amendment is in order at this point for consideration as an amendment to that section to which it is offered.

Mr. DAVIS. Mr. Chairman, I wish to particularly address the chairman of the Committee on Merchant Marine and Fisheries. As I recall, the previous bill contained a provision to the effect that the decisions of the commission would be binding on the Secretary, and it was suggested in the committee that they should likewise be binding on the other parties, and I understood it would go into the bill in that way.

What is the need of having a commission to review the decisions of the Secretary of Commerce, whether it be upon reference or upon appeal, if it is not going to be binding? I think the gentleman from Maine [Mr. WHITE] will verify the fact that the provisions relative to the original commission provided only for references, but it was followed by the statement that the decisions of the commission should be binding upon the Secretary. Now, this amendment simply covers the present situation and makes it binding, as it should be, upon the Secretary and the other parties to the case unless it is modified or reversed by the court upon appeal. I assume that there surely can be no objection.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee.

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. DAVIS. A division, Mr. Chairman.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 24, noes 44.

So the amendment was rejected.

Mr. DAVIS. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Tennessee offers another amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 23, line 17, after the word "Congress," insert "with the exception of the Secretary, a clerk to each commissioner, the attorneys and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. DAVIS. Now, Mr. Chairman, I wish to offer another amendment.

The CHAIRMAN. The gentleman from Tennessee offers another amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 23, line 18, strike out lines 18 to 23, inclusive, as follows:

"The members of the commission shall receive a compensation of $25 per day for each day's attendance at sessions of the commission and while traveling to and from such session, but not to exceed 120 days' pay in any calendar year, and also their necessary traveling expenses," and insert in lieu thereof "each member of the commis-

sion shall receive a salary of $10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. No commissioner shall engage in any other business, vocation, or employment."

Mr. DAVIS. So far as the question of cost is concerned I submit that there can not be much difference between a commission of five to serve permanently, and devoting all of its time and attention to this work, and a commission which is authorized to convene and serve as often as it sees proper, not exceeding 120 days in the year, and at $25 each per day. However, there is this additional provision—that all of their expenses to and from their respective places of residence to the meetings, no matter how often they may be held, shall likewise be paid by the Government, and this will naturally amount to a considerable sum which would not be paid in the case of the permanent commission.

So far as the importance of the two is concerned, there is no comparison. This is a very complex and technical subject. No official or tribunal can intelligently and efficiently pass upon these questions without a study of the problem and a study of it in its broader aspects. There is just as much reason for this commission to devote all of its time to becoming informed upon the matters in the various radio fields as there is in the case of the Interstate Commerce Commission.

If anything it is a more complex subject. As I have heretofore stated, I think it should be enlarged into a communications commission, so as to give them jurisdiction over all of the communication services. That amendment could be made in the Senate by the committee to which it will be referred and which has jurisdiction over both wire and wireless communications. I believe anybody who is at all familiar with this subject will concede such a commission with real authority is absolutely inevitable. The establishment of the Interstate Commerce Commission was fought by the railroads and others for perhaps 40 years, just like this is being fought. As Secretary Hoover himself says, and as everybody who knows anything about it must admit, these are public utilities, and the time has arrived when we should have someone in authority and with the time, the opportunity and the knowledge to deal with these matters.

Not only that, but there is another important feature in having a permanent commission on the ground all the time and that is to speedily hear and determine appeals that may be taken from decisions of the Secretary of Commerce. As it is now provided they may convene in six months or they may convene in nine months and they may have consumed all of their 120 days, in which event they could not convene any more during that calendar year. Yet there may be any number of important appeals—which the parties in interest have a right to have speedily determined—resting in the archives of that commission and yet it be unable to convene.

It is an important subject and it is entitled to consideration such as is suggested by this amendment.

Mr. LARSEN. Mr. Chairman, I rise in opposition to the amendment. Gentlemen of the committee, I am rather sparing with compliments at all times, but I think this is one instance when gentlemen on the other side of the Chamber are entitled to our congratulations rather than censure.

As the bill was originally drawn it provided for nine commissioners, to be appointed by the President, without the advice or consent of anyone. The bill did not specifically provide that the President should appoint the members of the commission from the respective districts, and, so far as its terms were concerned, they might all be members of one political party. For one, I thought the commission was too large, in that it had nine members.

I felt that a commission of three was amply large, and I still think so; but the committee after consideration of the proposition decided that it would be best to have at least five. So then a commission of that kind is provided in the bill. But the members are only paid $25 per day, and they can not be in session more than four months of the year. The jurisdiction of the committee is limited. It will be confined largely to appeals on the granting of licenses, the allocation of wave lengths, and so forth. Most of the work will be done by the Secretary of Commerce, and the commission will or can cost but little. The committee so amended the bill that the commission has been made both regional and bipartisan. Not only this, but their appointment is subject to the ratification of the Senate.

The tendency of the times is toward the creation of large commissions. A great many members of the House are here, I assume—I am sure this applies to Members on the Democratic side—under a distinct promise to their constituents that they will do everything in their power to reduce taxes. A considerable majority of our people are opposed to large bureaus and commissions. Speaking for myself, I know I voice the sentiments of a great many people not only in my district but in various parts of the country when I say Government commissions are entirely too large and too numerous.

We should not forget that radio activities so far as rates are concerned are already under a commission. They are under the Interstate Commerce Commission, as are the telephone and telegraph companies. We have no jurisdiction under the pending bill to deal with the telephone and telegraph companies, so why do you want to take such jurisdiction as relates to rate matters for radio communication from under the Interstate Commerce Commission and put it under another commission, a large one, whose members are to be paid a salary of $10,000 per year each.

The amendment proposed by the gentleman from Tennessee, to me seems unnecessary at this time and the present legislative situation. The gentleman says in one breath he thinks the commission ought to be broad enough to sweep into its activities all wire and wireless communications, such as have to do with radio, the telephone, the telegraph, and the cable. But the gentleman admits you can not sweep them in because the committee does not have jurisdiction.

Mr. DAVIS. Will the gentleman yield?

Mr. LARSEN. Yes.

Mr. DAVIS. Does that parliamentary situation alter the principle?

Mr. LARSEN. I think it does. I also think it is a very bad principle and a principle we should not countenance in the enactment of this legislation.

I am opposed to undertaking to create large commissions to give an excuse for gentlemen at the other end of the Capitol to lug in legislation when they may not otherwise do it. If they are going to do that, let them have hearings on the matter and proceed in an orderly and systematic way.

We heard nothing when we were conducting hearings upon this bill with reference to the telegraph, the telephone, or to the cable situation in this country except from a gentleman who came here from Boston saying that he preferred they should all be swept into one heap and that the bill should be so drawn as to give jurisdiction over all of them. When we looked into the situation that could not be done, as the committee did not have jurisdiction of any matters except radio.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. LARSEN. Mr. Chairman, I ask for five additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LARSEN. After looking into the situation we decided we could not exercise jurisdiction over telephone and telegraph matters, and therefore decided we would create a radio commission, without jurisdiction as to rates for service, but authorized to aid the Secretary of Commerce and to also guard the public interest where needed, and that is what I am in favor of doing. I am not favorable to the creation of a large or expensive commission.

Consider some of the appropriations made for the various commissions already in existence and we may get an idea of where the matter will probably end should we create another, such as the amendment proposes.

If there is anything that ought to be efficient, it is the Bureau of Efficiency, yet it cost us over $150,000 last year, and the bill for this year carries $210,350. For the Civil Service Commission we appropriated last year $1,008,092; there was appropriated for travel alone $18,000 and for rent $24,592. This year's appropriations for Employees' Compensation Commission is $2,742,040, of which $138,000 is for salaries. The appropriation for the Federal Board for Vocational Education is $843,620; Federal Power Commission is $28,400; Federal Trade Commission for last year was $1,008,000; for this year it is $997,000. The Housing Corporation appropriation was for last year $743,915, while for this year it is $674,398.

Mr. BLANTON. And if the gentleman will yield, the Housing Corporation was a war corporation, that was supposed to go out of business shortly after the war.

Mr. LARSEN. Yes. The point I make is that when you once creat a commission you can not put it out of business. You have an annual expense from year to year whether it is necessary or unnecessary.

Then there is the Interstate Commerce Commission, consisting of nine members, that you say will not do this work. The appropriation for that commission was for last year $6,853,962, while for this year the House has voted $6,153,157.

I do not favor the maintenance of big commissions. What is more important than the postal transactions of this country? What business is larger or more intricate? Yet one Post-

master General is in charge of all the work, and giving more general satisfaction than the entire Interstate Commerce Commission with its nine members, and you know it. If the Interstate Commerce Commission would divide up the work so as to permit each member of the commission to perform a different service, say, letting one man look after radio, another telephone and telegraph, while another looks after railroads, and so forth, and then sit en banc when necessary and dispose of the business of the commission, they might, and I believe would, accomplish much more. For one I am not in favor of creating any more large commissions.

The little commission we have created here performs simple duties with reference to licenses and matters of that kind. They will be here but four months in the year, and they can not spend much money, although I am afraid it is but a nucleus for building up a large commission. God knows, for one, I want to postpone the evil day as long as possible.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. LARSEN. Yes.

Mr. COOPER of Wisconsin. The gentleman says this little commission he speaks of will be here only four months in the year. Who will attend to complaints and transact other business during the other eight months?

Mr. SCOTT. There will not be any business to transact.

Mr. COOPER of Wisconsin. Why do you have any commission at all?

Mr. LARSEN. Because there may be a little work to do pertaining to granting of licenses, wave lengths, and so forth.

Mr. COOPER of Wisconsin. The gentleman says there may be a little work to do. How much, 4 months or 12 months?

Mr. LARSEN. The Secretary of Commerce says it probably will not be more than 30 days. They can not work over four months per year. So far as I am personally concerned, I trust they have nothing to do. Under the terms of the bill as now written, if they do no work, they will be paid nothing. No one should want to pay an idle "swivel-chair brigade." Our national commission octopus is already too large; his legs are too long. I am in favor of lopping them off instead of trying to grow more.

Mr. MOORE of Virginia. Mr. Chairman, I offer an amendment to strike out the last line of the amendment offered by the gentleman from Tennessee.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Mr. MOORE of Virginia moves to amend the amendment offered by Mr. DAVIS by striking out the following language: "no commissioner shall engage in any other business, vocation, or employment."

Mr. SCOTT. Mr. Chairman, with the permission of the gentleman from Virginia, I want to ask unanimous consent that at the end of five minutes all debate on the section and all amendments thereto be closed.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent that all debate on this section and all amendments thereto close in five minutes. Is there objection?

Mr. COOPER of Wisconsin. I object.

Mr. SCOTT. Mr. Chairman, I move that all debate on this section and amendments thereto be closed in five minutes.

The question was taken and the motion was agreed to.

Mr. MOORE of Virginia. Mr. Chairman, I would be the last one to minimize the earnest work that has been done by this committee, and a great many features of the bill have my thorough approval. But I think the bill is greatly lacking in the feature dealt with in the amendment offered by the gentleman from Tennessee. I believe that when we start to legislate broadly on a great subject like the one involved in this bill we should start right and make the legislation as comprehensive as most of us admit that it should be.

Now, we all agree that complete jurisdiction should not be left entirely with the Secretary of Commerce, however able, strong, and patriotic may be the man now occupying the office. During the consideration of this matter in the last Congress and in the present Congress everybody has admitted this necessity, because everybody has favored a committee or a commission acting in conjunction with the Secretary. In the last Congress a committee of 15 was proposed by the bill brought here by the committee that brings in this bill.

In the present Congress the bill that was offered contemplated a permanent commission of nine. Now we have a proposal for a commission which, from the point of view of many, can not be justified. My friend from Georgia [Mr. LARSEN] suggests that the reason we ought to be content with it and not do something more effective is that we have too many commissions. We may have too many commissions, but that is not an answer to the proposition that there ought to be a very strong and effective commission, if any is to be created—not large, but strong and effective, permanent in its character, and possessing well-defined powers.

Mr. LARSEN. Will the gentleman yield?

Mr. MOORE of Virginia. I can not, as I have only five minutes. The gentleman makes another suggestion and says that the Interstate Commerce Commission has jurisdiction already. I do not know anyone familiar with the business of that commission who does not realize that it can not take charge of the radio business. It now has more duties than it can well perform in connection with the regulation of the railroad companies and the varied and complex work incident thereto.

Mr. LARSEN. Will the gentleman yield?

Mr. MOORE of Virginia. I suppose I must yield.

Mr. LARSEN. Will the gentleman from Virginia tell the House why the Interstate Commerce Commission should neglect one branch of the work in preference to another if they have jurisdiction over this?

Mr. MOORE of Virginia. The law has charged it with the great duty of regulating railway transportation, and Congress is almost constantly increasing its labors along that line. Whoever understands the present conditions can hardly think that it can or will do much in regulating wire or wireless communication. The reason why I shall reluctantly vote against the bill is that I am hopeful it will be recast in the Senate, and in that process there will be a commission created either within or without the Department of Commerce which will be charged with jurisdiction and responsibilities not only with respect to the radio but the telegraph, the telephone, and the cables. That, in my judgment, would be a proper step to take and give an assurance for the future which this bill with this curiously unusual and extraordinary commission will not afford.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia to the amendment of the gentleman from Tennessee.

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Tennessee.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 9. The Secretary of Commerce is authorized to designate from time to time radio stations, the communications or signals of which, in his opinion, are liable to interfere with the transmission or reception of distress signals of ships. Such stations are required to keep a licensed radio operator, of a class to be determined by the Secretary of Commerce, listening in on the wave length designated for radio communications or signals of distress during the entire period the transmitter of such station is in operation.

Mr. COOPER of Wisconsin. Mr. Chairman, I move to strike out the last word. As the gentleman from Virginia [Mr. MOORE] rose to express his sentiments respecting this bill and the reluctance with which he will vote against it, I rise to express mine. The subject involved in the bill is one of the most important that will come before the Sixty-ninth Congress. It is a measure of vast importance and proposes, I think, with all due respect to Secretary Hoover, to give to the Secretary of Commerce more power over radio than any man ought to have. There have been department Secretaries to whom no Member of the House would vote to give this power. We might as well be plain about it. Is there a gentleman on this floor who would give this power over radio to former Secretary Fall? That is a legitimate question. Secretary Hoover is a man of very high reputation and of exceptional ability, but that has nothing to do with the question. He is a political appointee. Should a political appointee have control over an invention which may be used with such tremendous power in politics? This is not a party question; this is a question which concerns the welfare of all of the people of the United States, because the politics of the United States directly concern all of the people of the country. No political appointee of any party should be given control of the radio system of the United States. With due deference to the committee which thought differently, it is my judgment that the commission should be permanent, because it will have to do with a business that is of exceeding importance now and that will be of greatly increased—transcendant—importance in the not distant future.

Everyone will remember reading about the conversation which went on for two hours by radio on Sunday last between New York and London, and who can forget that after the conversation an expert connected with one of the companies said that the time, he thought, was not far distant when a person in this country will be able to call a friend in Continental Europe and converse with him by radio. Now, should any political appointee of any party have control of a

business of that magnitude and of such tremendous potentialities? No, Mr. Chairman; there should be a commission, and it should be permanent.

The gentleman from Georgia [Mr. LARSEN] used an argument here which I heard when I introduced in 1903 a bill proposing to give to the Interstate Commerce Commission the powers which it now has, namely, among other things, upon its own initiative to inquire into abuses in railroad traffic and to protect shippers not able to protect themselves.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. COOPER of Wisconsin. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COOPER of Wisconsin. There should be a permanent commission in charge of our great radio system. The gentleman from Georgia [Mr. LARSEN] a moment ago said that the commission proposed in the pending bill will not be here more than four months. Now, what particular four months will that be, and who will control this matter during the other eight months?

Mr. LARSEN. The gentleman realizes they are already under a commission of nine and the Secretary of Commerce.

Mr. COOPER of Wisconsin. The gentleman from Wisconsin also realizes that the gentleman from Virginia [Mr. MOORE] punctured the previous similar statement of the gentleman from Georgia and showed that there is really nothing in it in the way of argument by directing attention to the fact that the Interstate Commerce Commission now, as the gentleman from Georgia himself well knows, has more business than it can keep up to date.

Mr. LARSEN. I would say to the gentleman that I do not know anything of the kind. I think they have a great deal more than they are attending to, but I think they are getting along with it very well. I know of no reason why they should neglect this other business.

Mr. COOPER of Wisconsin. I do not think they would neglect it. They simply would not be able to do an impossible thing. The gentleman looks like an intelligent man——

Mr. LARSEN. Oh, equally so with the gentleman on the other side of the Chamber, and I think that my argument illustrates that fact. Certainly in the community where I am known, I know I rank as high in intelligence as does the gentleman.

Mr. COOPER of Wisconsin. The gentleman is unusually belligerent—much more so, I think, than a man who has a righteous cause ought to be.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. COOPER of Wisconsin. Mr. Chairman, I ask to have the minute which the gentleman from Georgia took away from me.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. COOPER of Wisconsin. The Interstate Commerce Comsion, Mr. Chairman, you know, as well as anyone, and the gentleman from Georgia will if he takes occasion to investigate—the Interstate Commerce Commission can not to-day attend properly, efficiently, and promptly and keep up to date the business devolving upon them by the statutes that the Congress has enacted. It can not do it. It complains constantly of the great amount of business it is called upon to transact. It can not keep up to date, I repeat, and to give them to-day the control of this radio is to devolve upon them a duty they can not perform. To show that the commission in this bill amounts to nothing, they put out of the bill——

The CHAIRMAN. The time of the gentleman has expired.

Mr. COOPER of Wisconsin. I withdraw the pro forma amendment.

Mr. LARSEN. Mr. Chairman, I ask for one minute.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. LARSEN. Mr. Chairman, I wish to say to the gentleman from Wisconsin that I have a very high regard for his intelligence and would not say anything to wound his feelings. I do not think the gentleman would try to reflect upon me, besides he says he withdraws his statement. I realize he is a man of very high intelligence and a man for whom I have the very highest regard. At the same time I think there are a great many things neither of us knows about the Interstate Commerce Commission and its duties. I imagine its duties are so numerous and so intricate that members on the commission hardly know themselves. I think the Interstate Commerce Commission will not neglect any pressing work, but will continue to look after any matter pertaining to railroads which comes before them to the best of their ability. [Applause.]

The Clerk read as follows:

SEC. 17. Any person, firm, company, or corporation failing or refusing to observe or violating any rule, regulation, restriction, or condition made or imposed by the Secretary of Commerce under the authority of this act or of any international radio convention or treaty ratified or adhered to by the United States, in addition to any other penalties provided by law, upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine of not more than $500 for each and every such offense, which fine may be mitigated or remitted by the Secretary of Commerce.

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 28, lines 19 and 20, after the word "offense," strike out the comma and the following language: "which fine may be mitigated or remitted by the Secretary of Commerce' and in lieu thereof add a comma.

Mr. DAVIS. Mr. Chairman, the words which I propose to strike out confer upon the Secretary of Commerce the right to remit or mitigate fines imposed by a court after conviction and as ridiculous as it is it is not more ridiculous than many other features of the bill. It is preposterous, it is in violation of the Constitution of the United States, in my opinion. It is undertaking to confer upon the Secretary of Commerce a power that under the Constitution is conferred alone on the President of the United States. [Applause.] Section 2 of the Federal Constitution provides—

That the President shall (omitting certain provisions) have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

In other words, the President himself is restricted in the particular indicated and, of course, that authority is exclusive. It confers such authority upon him and upon him alone, and it was a power that had to be conferred by the people in constitutional convention assembled. I do not think it needs any further comment. [Applause.]

Mr. GARRETT of Tennessee. The gentleman from Maine [Mr. WHITE] surely is going to accept that amendment, is he not?

Mr. WHITE of Maine. I surely am not going to accept it, so far as I am concerned, and I want to be heard briefly on it.

Mr. BLANTON. The court would knock it out if the gentleman does not accept it.

Mr. WHITE of Maine. Mr. Chairman, in the first place, this provision gives the Secretary of Commerce authority to remit or mitigate only penalties imposed for violations of rules or regulations or conditions made or imposed by himself under the authority of this act or under any international agreement; authority to remit or impose penalties for violation of the regulations he himself has made. Since we have had navigation laws on the statute books a similar provision has been contained in those laws, giving the Secretary of Commerce the power to remit or mitigate the penalties carried therein.

Mr. GARRETT of Tennessee. Does the gentleman from Maine mean to say after the decision of the court?

Mr. WHITE of Maine. Yes. I will read you some authorities. I read from an opinion of the Attorney General of the United States:

The Attorney General (29 Op. Atty. Gen., p. 149) considered a case in which judgment by default was entered into in the District Court of the Southern District of New York. The defendant was not able to pay the amount of the judgment, to which had been added interest and costs, and the department inquired of the Attorney General if it could mitigate the total amount to a sum less than the interest and costs which attached.

The Attorney General held that this could be done, citing the case of the United States *v.* Morris (10 Wheat. p. 246) and the *Laura* (114 U. S. 411, 415). The syllabus of the opinion of the Attorney General is as follows:

"The Secretary of Commerce and Labor has authority, under section 5294 of the Revised Statutes, to remit or mitigate a penalty after entry of final judgment incurred for violating a provision of law relating to vessels and seamen and discontinue the prosecution."

You will note this authority is held to exist as to a violation of a provision of law; not a regulation imposed by himself but the violation of a provision of law relative to vessels and seamen. I read further:

The costs which are not as a general rule charged against the defendant when proceedings are discontinued by the plaintiff may also be remitted or mitigated by the Secretary in accordance with the provisions of section 5294, Revised Statutes.

That is the opinion of the Attorney General.

Mr. GARRETT of Tennessee. Is that after the court has passed upon it?

Mr. WHITE of Maine. Absolutely.

Mr. WINGO. Is that the imposition of a penalty, not fine or imprisonment?

Mr. WHITE of Maine. Yes; and costs. This particular section here creates no crime. It provides only for a penalty of $500.

The next paragraph in the bill provides for penalties or punishments in the case of crime, and in that respect the Secretary is given no authority to remit or mitigate. Now let me read further:

In United States *v.* Morris (10 Wheat. 246) the Secretary of the Treasury under authority of a statute remitted a penalty after a judgment of forfeiture of ship and goods had been entered in the court. One of the questions was "that the Secretary of the Treasury had no power to remit after condemnation." The court said, "It can not be maintained that Congress has not the power to vest in this officer authority to remit after condemnation."

The Morris case was approved in the confiscation cases (7 Wall. 454, 461), and the same doctrine was cited in Brown *v.* Walker (161 U. S. 598, 601). In Peacock *v.* United States (125 U. S. 583) it was held that the Secretary of the Treasury had the same power to remit the penalty after as before judgment thereon, and this was approved in United States *v.* 150$\frac{1}{2}$ Dozen Long Gloves (168 U. S. 1010).

This doctrine has been followed in a long line of decisions. I think it is perfectly clear that the courts have held that this is an authority that may be conferred upon any of the secretaries. That is quite apart, I agree, from the question whether it is wise for us to confer it. But certainly the courts have held over and over again that it may be done.

Let me emphasize it again. This authority to remit or mitigate is given here only in the case of the violation of a regulation which the Secretary himself has promulgated. I do not suggest that where there is a violation of the law the Secretary should have the power to mitigate or remit. There is a sharp distinction, as the gentleman will note, between this provision and the following provision in the bill.

The CHAIRMAN. The time of the gentleman from Maine has expired.

Mr. GARRETT of Tennessee. Mr. Chairman, I ask for recognition.

The CHAIRMAN. The gentleman from Tennessee is recognized.

Mr. GARRETT of Tennessee. Mr. Chairman, I should like to ask the gentleman why they provide that they go into court at all, if it is simply a matter of violating a regulation which the Secretary makes.

Mr. WHITE of Maine. I am perfectly willing to accept that suggestion and omit that part of it, because it may very well happen that the court would find no offense committed, and there might not be any penalty imposed by the court. However, in those cases where there is a penalty imposed by the court, whether it is wise or not, the practice for 100 years has been to permit the Secretary to remit or mitigate, and I venture the assertion that in these minor matters it has worked out well.

Mr. GARRETT of Tennessee. Mr. Chairman, I do not know, but I have always had the idea that the pardoning power was vested in the Executive. If it goes into a court and the court imposes a penalty, that then only the supreme executive power could alter a decision of the court.

Mr. WHITE of Maine. Well, I think the distinction is in the fact that the offense arises out of the action of the Secretary in promulgating the rules and regulations.

Mr. GARRETT of Tennessee. Then, why do you provide for it to go to court?

Mr. WHITE of Maine. I am perfectly willing to omit that.

Mr. GARRETT of Tennessee. Then, why does not the gentleman from Maine prepare an amendment along that line?

Mr. HILL of Maryland. Will the gentleman yield?

Mr. GARRETT of Tennessee. Yes.

Mr. HILL of Maryland. If the gentleman omits that clause, who would say how much of the $500 was to be assessed as a fine?

Mr. GARRETT of Tennessee. The gentleman from Maine will have to work that out.

Mr. WHITE of Maine. I am entirely satisfied with the section as it is, yet I do not care if you want to strike out those words. I think the provision ought to be there, because I think there ought to be a submission to the court of the question as to whether there has been a violation of the rules and regulations promulgated by the Secretary.

Mr. HILL of Maryland. Will the gentleman from Tennessee yield?

Mr. GARRETT of Tennessee. Yes.

Mr. HILL of Maryland. If you strike out the provision providing that the court shall assess the fine, who will then assess the fine, because the fine may be anything up to $500? You have got to have somebody to say how much the fine is.

Mr. BLACK of New York. Will the gentleman yield to me?

Mr. GARRETT of Tennessee. Yes.

Mr. BLACK of New York. If you strike out the court section, how is it to get into the hands of the marshal to collect?

Mr. GARRETT of Tennessee. I do not know, but I do know this: It seems to me this is a violation of every sort of thing in State or Nation. I did not know that we had ever clothed a subordinate official with the absolute pardoning power, and yet that is what this is.

Mr. McKEOWN. Will the gentleman yield?

Mr. GARRETT of Tennessee. Yes.

Mr. McKEOWN. The gentleman from Maine used the word "fine," as I understood him.

Mr. GARRETT of Tennessee. Well, if they provided for a jail sentence, it would be the same thing, and there would be no difference.

Mr. McKEOWN. The word "fine" ought to come out, because there is a distinction between fine and penalty. The Secretary will have the right to remit any penalty at any time, but if it is a fine the Secretary has no power to remit the fine; neither has the trial judge, and it has been so decided.

Mr. GARRETT of Tennessee. But he would have that right under this language.

Mr. WHITE of Maine. I think the decisions which I have referred to amply sustain the authority of Congress to pass a statute of this sort, and statutes of this character have been on the books for 100 years.

Mr. GARRETT of Tennessee. Was it required that a court should pass upon them?

Mr. WHITE of Maine. Yes; absolutely, and there is no question about it. There has always been the right to remit and mitigate penalties imposed by the courts.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GARRETT of Tennessee. Mr. Chairman, I ask for two minutes more.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to proceed for two additional minutes. Is there objection?

There was no objection.

Mr. McKEOWN. Will the gentleman yield?

Mr. GARRETT of Tennessee. Yes.

Mr. McKEOWN. The decisions from which the gentleman read is where a court enforced a penalty and not a fine, and the gentleman will find, if he will refer to these decisions, that they use the word "penalty." The word "penalty" and the word "fine" have two separate and distinct meanings in the law, and the Supreme Court of the United States has so held, and has also held that a judge has no power to remit a fine.

Mr. GARRETT of Tennessee. Now, Mr. Chairman, let me say this: If this passes in this form and if the President of the United States has not lost respect for the executive authority, not only his authority but the authority that is to come hereafter, he will veto this bill. You can not delegate or should not delegate to a subordinate official the exercise of the supreme power to pardon, and that is what this is. [Applause.] I do not know whether the Executive will be under such influence of the present Secretary of Commerce as that he will concur in it. It is not a matter of the individual who is now Secretary of Commerce.

It is not a matter of the individual who is now President of the United States, it is a matter of the exercise of the pardoning authority under the Constitution and under the law. Surely, you do not want to put that power in the hands of a subordinate official.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

Mr. HILL of Maryland. Mr. Chairman, may the amendment be again reported?

The Clerk again reported the amendment offered by Mr. DAVIS.

Mr. CONNALLY of Texas. Mr. Chairman, I move to strike out the last word in order to ask the gentleman from Maine [Mr. WHITE] a question. Let me ask the gentleman from Maine, in examining the decisions that the gentleman read, is it not true they only apply to civil penalties that were

inflicted or not inflicted by the Secretary for violations of his regulations?

Mr. WHITE of Maine. I do not think so.

Mr. CONNALLY of Texas. And is it not true they do not refer to a criminal penalty, either a fine or imprisonment?

Mr. WHITE of Maine. I do not know that it makes any difference in principle, but I do not think they do apply to civil cases.

Mr. CONNALLY of Texas. Certainly there is a line of distinction between a civil penalty, which could only be recovered by judgment and execution upon the judgment and that sort of thing, and a criminal penalty, which would carry with it imprisonment for failure to pay.

Mr. WHITE of Maine. I do not think that is so.

Mr. CONNALLY of Texas. If the gentleman will examine the opinions, I believe the gentleman will find that is the case.

Mr. O'CONNELL of Rhode Island. Will the gentleman from Texas yield, that I may ask the gentleman from Maine whether he considers it important enough to insist that the Secretary shall have this power, and by his insistence imperil the passage of this legislation? Why can we not agree that that may be stricken out and go ahead with the bill?

Mr. WHITE of Maine. It is perfectly apparent that if a majority of the committee are against this provision they will adopt the amendment which has been offered, and that will obviate the difficulty which the gentleman from Rhode Island suggests. So far as I am personally concerned, I am against the amendment which is suggested, because I believe this is a salutary provision. I believe similar provisions have worked well during the 100 years during which similar provisions have been on the statute books, and I believe this provision ought to be in the bill.

Mr. BLACK of New York and Mr. GARRETT of Tennessee rose.

Mr. CONNALLY of Texas. Before I yield, let me say this to the gentleman from Maine. The gentleman does not provide in his bill that the Secretary has the power to fine anybody or imprison anybody, does he?

Mr. WHITE of Maine. No.

Mr. CONNALLY of Texas. Then, of course, a violation of the regulations, just as I suggested to the gentleman, would not be a criminal penalty, and it could only apply to a civil penalty recoverable in the courts of law by judgment and execution thereon, and therefore the decisions if they follow that line at all are not in point.

Mr. WHITE of Maine. Of course, there is nothing new about this. A similar provision is in the present radio law, giving to the Secretary power to remit and mitigate, and it is almost common practice in our statutes.

Mr. CONNALLY of Texas. The gentleman has just admitted that the Secretary has no power to fine people and imprison them, and therefore a ruling that the Secretary could mitigate a penalty would not mean he could mitigate a fine or imprisonment.

Mr. WHITE of Maine. I do not claim that.

Mr. BLACK of New York. If the gentleman will yield——

Mr. CONNALLY of Texas. Yes.

Mr. BLACK of New York. The gentleman realizes that although the Secretary may be given this power, he can not affect the judgment of the court, and this language will simply allow him to go into court and have the order of the court amended.

Mr. CONNALLY of Texas. I think the language ought to be stricken out.

Mr. BLACK of New York. Then he could not go into court and apply for a change in the original judgment.

Mr. GARRETT of Tennessee. If the gentleman from Texas will permit, let me say to the gentleman from New York [Mr. BLACK] this puts the pardoning power in the hands of a subordinate of the Executive—complete pardoning power.

Mr. BLACK of New York. My position is it keeps it in the court where it must finally go. The court orders the judgment, and the court is the only one that can alter that judgment.

Mr. GARRETT of Tennessee. That is not what it says.

Mr. COOPER of Wisconsin. Mr. Chairman, I move to strike out the last word.

I would like to ask the gentleman from Maine this question: Is the use of the word "fine" correct—accurate? A fine is imposed by a court after conviction for a misdemeanor, a violation of a criminal law, but would there be here a violation of anything in the nature of a criminal statute?

Mr. WHITE of Maine. I do not think so. I accept the gentleman's suggestion. It would be happier language if that was "penalty" instead of "fine."

Mr. COOPER of Wisconsin. It should be changed, because this fine of $500 would presuppose the commission of a misdemeanor.

Mr. WHITE of Maine. I think the gentleman is right. I think it would have been happier language if I had used the word "penalty" rather than "fine."

Mr. HILL of Maryland. Will the gentleman yield?

Mr. COOPER of Wisconsin. I yield.

Mr. HILL of Maryland. Section 17 creates a new misdemeanor. Anything punished by the court with a fine is a misdemeanor.

Mr. COOPER of Wisconsin. And it being a fine imposed by a court for a misdemeanor you should not attempt to delegate the pardoning power to the Secretary of Commerce.

Mr. GARRETT of Tennessee. This does not create a misdemeanor, but it delegates to the Secretary of Commerce the authority to say what shall be a misdemeanor; that is bad enough. And then it provides that the court may sustain if it choose that ruling by the Secretary, and then he can set the court decision aside.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

this act, upon conviction thereof in any court of competent jurisdiction shall be punished by a fine of not more than $5,000 and/or by imprisonment for a term of not more than five years for each and every such offense.

Mr. HILL of Maryland. Mr. Chairman, I move to strike out the last word. What does the language in lines 2 and 3, page 29, mean, "a fine of not more than $5,000 and/or by imprisonment for a term of not more than 5 years?"

Mr. SCOTT. The language means both.

Mr. HILL of Maryland. In other words, it means a fine of not more than $5,000 and a term of imprisonment of not more than 5 years, or a fine alone, or imprisonment alone. It does not have to be both.

Mr. SCOTT. No.

Mr. HILL of Maryland. Why do you not adopt the ordinary phraseology in criminal codes and say a fine of not more than $5,000 or by imprisonment for a term of not more than 5 years, or both? That is the usual language.

Mr. BLANTON. Can the gentleman tell us just where this new and archaic phraseology that we find lately in our bills came from?

Mr. HILL of Maryland. I do not know. I do not think it proper. This section creates a new Federal crime—not a misdemeanor but a felony—and it should be specific and absolutely clear in its meaning.

Mr. BLANTON. Within the last year this language has just popped up.

Mr. HILL of Maryland. In all penal statutes of the United States the penalty is imprisonment or a fine or both. As the gentleman from Texas [Mr. BLANTON] says this sort of language has only appeared recently. The gentleman from Texas never saw this sort of language when he was a judge on the bench and I never saw it in Federal criminal statutes when I appeared before the bench as a Federal district attorney.

Mr. BLANTON. Some committee found this in some old archaic statute and now puts it in every bill that comes here.

Mr. WHITE of Maine. As a further explanation of the source from which it comes I refer the gentleman to his own side of the House.

Mr. HILL of Maryland. Wherever it came from, it is bad. Mr. Chairman, I move to amend on page 29, line 3, by striking out the word "and" and the down stroke "/," and in line 4, after the word "years" insert the words "or both."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. HILL of Maryland. Page 29, line 3, strike out, after the figures "$5,000," the word "and" and the down stroke "/"; and in line 4, after the word "years," insert the words "or both."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was agreed to.

Mr. HILL of Maryland. I am glad the committee agreed to this amendment. We can not be too careful when we add new offenses to the Penal Code and extend the criminal jurisdiction of the Federal Government. The section, as just amended, reads:

SEC. 18. Any person, firm, company, or corporation who shall violate any provision of this act, or shall knowingly make any false oath or affirmation in any affidavit required or authorized by this act, or shall knowingly swear falsely to a material matter in any hearing

authorized by this act, upon conviction thereof in any court of competent jurisdiction shall be punished by a fine of not more than $5,000 or by imprisonment for a term of not more than five years, or both, for each and every such offense.

This is a pretty stiff provision. If anybody violates any provision of this act he may, if the judge desired, after conviction be sent to a Federal penitentiary for five years and also fined as much as $5,000. There are all sorts of "provisions of this act," some a violation of which would be serious, while others are trivial.

For example, section 10, in part, provides—

All radio stations, including Government stations and stations on board foreign vessels when within the territorial waters of the United States, shall give absolute priority to radio communications or signals relating to ships in distress; shall cease all sending on frequencies or wave lengths which will interfere with hearing a radio communication or signal of distress and, except when engaged in answering or aiding the ship in distress, shall refrain from sending any radio communications or signals until there is assurance that no interference will be caused with the radio communications or signals relating thereto, and shall assist the vessel in distress so far as possible by complying with its instructions.

A violation of this provision would be serious, but in most cases not properly punishable by five years' confinement and $5,000 fine.

On the other hand, section 1, paragraph C, provides:

(C) In time of war or of threat of war or of public peril or disaster or of national emergency or in order to preserve the neutrality of the United States, the President may cause the closing of any station for radio communication and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station and/or its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners, and every license issued shall be subject in terms to such right.

Section 1, paragraph D, also provides—

That upon proclamation by the President that there exists war or a threat of war or a state of public peril or disaster or other national emergency, the President may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations within the jurisdiction of the United States as prescribed by the Secretary of Commerce, and may deal with such stations as authorized by paragraph (C) hereof.

Violations of these provisions might be of a very serious nature.

Section 17 would probably be the one ordinarily used for infractions of regulations made under this act. We just struck out the last 12 words of that section, so that it now reads as follows:

SEC. 17. Any person, firm, company, or corporation failing or refusing to observe or violating any rule, regulation, restriction, or condition made or imposed by the Secretary of Commerce under the authority of this act or of any international radio convention or treaty ratified or adhered to by the United States, in addition to any other penalties provided by law, upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine of not more than $500 for each and every such offense.

We can not be too careful about the extension of the criminal jurisdiction of the Federal Government, but in the matters covered by this bill, we seem to have a clear zone of proper Federal activity.

This bill was carefully considered by a very able committee which reported the bill with but one Member expressing minority views, yet in the last two days of consideration a number of amendments have been made by this Committee of the Whole.

Very often we hear the question asked by our own or another Member's constituent, "What have you done in Congress?" or "What has Representative X accomplished in Congress?" "Why should you be reelected?" or "Why should we send Congressman X back to the House?"

The general public often does not know of the laborious grind of the "Committee of the Whole House on the state of the Union," and we ourselves very often forget the part that various Members have played in the shaping and passage of important legislation.

The only thing that we can do is to go back to the indexes of the various sessions of various Congresses and see what part Members have taken in the work of the House. If you do that, gentlemen, you will often be surprised to find the number of important measures to whose final form you made definite contribution. Look at the indexes to the CONGRESSIONAL RECORD, and then perhaps you will feel somewhat comforted for the days you have sat here and watched bills like this slowly move forward to final passage.

This bill is a very important one; note section 1, paragraph A, which is as follows:

(A) That it is hereby declared and reaffirmed that the ether within the limits of the United States, its Territories and possessions is the inalienable possession of the people thereof, and that the authority to regulate its use in interstate and foreign commerce is conferred upon the Congress of the United States by the Federal Constitution. No person, firm, company, or corporation shall use or operate any apparatus for the transmission of radio energy or radio communications or signals (a) from one place in any Territory or possession of the United States or in the District of Columbia to another place in the same Territory, possession, or District; or (b) from any State, Territory, or possession of the United States, or from the District of Columbia to any other State, Territory, or possession of the United States; or (c) from any place in any State, Territory, or possession of the United States, or in the District of Columbia, to any place in any foreign country or to any vessel; or (d) within any State when the effects of such use extend beyond the borders of said State, or when interference is caused by such use or operation with the transmission of such energy, communications, or signals from within said State to any place beyond its borders, or from any place beyond its borders to any place within said State, or with the transmission or reception of such energy, communications, or signals from and/or to places beyond the borders of said State; or (e) upon any vessel of the United States, or (f) upon any aircraft or other mobile stations within the United States, except under and in accordance with this act and with a license in that behalf granted by the Secretary of Commerce and except as hereinafter authorized.

Any bill that deals with the new and vast subject of ether control is of extreme importance. The bill creates a new commission. There are too many Federal commissions already. Apparently this commission is intended to act as a check on the great power given the Secretary of Commerce.

When Mr. Hoover appeared before the Committee on the Merchant Marine and Fisheries he said:

I have always taken the position that unlimited authority to control the granting of radio privileges was too great a power to be placed in the hands of any one administrative officer, and I am glad to see the checks and reviews which are placed upon that power in this bill.

* * * * * * *

The judgment of the board (commission) is made final and binding, subject only to an appeal to the courts, and I consider this a highly important provision. As some of the members of the committee know, I have felt that that provision for a board of reference should be somewhat tightened up over the present construction of the bill; in other words, that any question of dispute as to who shall enjoy the radio privilege may be referred to that body, not through the volition of the Secretary of Commerce but by either applicant or disputant in the question.

The proposed commission therefore seems to stand on a somewhat different basis than most of the new Federal commissions. The question of the regulation of radio communication is one of extreme importance, and the whole question of the regulation of the use of "the ether within the limits of the United States" is probably one of the most important matters for present consideration. When we consider radio control of aerial torpedoes that are said to be able to demolish cities, when we consider radio control of battleships and all the possibilities of "the ether," we can not be too careful in the consideration of the pending bill. [Applause.]

The Clerk read as follows:

SEC. 20. This act shall not apply to the Philippine Islands or to the Canal Zone. In international matters the Philippine Islands and the Canal Zone shall be represented by the Secretary of State.

Mr. HOCH. Mr. Chairman, I move to amend, on page 29, line 12, after the word "international," insert the word "radio."

The Clerk read as follows:

Amendment by Mr. HOCH: Page 29, line 12, after the word "international," insert the word "radio."

Mr. SCOTT. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 22. The act to regulate radio communication, approved August 13, 1912, and all other acts or parts of acts in conflict with this act, are hereby repealed. Such repeal, however, shall not affect any act done or any right accrued or any suit or proceeding had or commenced

in any civil cause prior to said repeal, but all liabilities under said laws shall continue and may be enforced in the same manner as if committed, and all penalties, forfeitures, or liabilities incurred prior to taking effect hereof, under any law embraced in, changed, modified, or repealed by this act, may be prosecuted and punished in the same manner and with the same effect as if this act had not been passed.

Mr. EATON. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. EATON: On page 30, line 3, after the word "accrued," insert "except as herein specifically provided."

Mr. GARRETT of Tennessee. Mr. Chairman, just what does that amendment mean?

Mr. EATON. Mr. Chairman, the intent of this bill, as I understand it, is to make an entirely new deal in regulating and handling the radio business. It would be quite possible for certain firms, corporations, and persons to claim that they have accrued rights under previous licenses. What I want to see is to have the language very explicit that those accrued rights are abrogated, if any ever existed, by this bill, and that a new deal is begun.

Mr. DAVIS. Mr. Chairman, I offer the following amendment as a substitute for the amendment offered by the gentleman from New Jersey.

The Clerk read as follows:

Amendment offered by Mr. DAVIS in the nature of a substitute for the amendment offered by the gentleman from New Jersey, Mr. EATON: Page 30, line 10, after the word "passed," strike out the period and insert the following: ": *Provided, however,* That nothing contained in this section shall be construed as authorizing any person, firm, company, or corporation now using or operating any apparatus for the transmission of radio energy or radio communications, or signals, to continue such use except under and in accordance with this act and with a license in that behalf hereafter granted by the Secretary of Commerce, and except as hereinbefore authorized."

Mr. DAVIS. Mr. Chairman, the purpose of the amendment I offer is the same, I presume, as the purpose of the amendment offered by the gentleman from New Jersey [Mr. EATON], but it occurs to me that there is very grave doubt as to whether his amendment would meet the situation. There is no question but that my amendment makes it clear. The necessity for any such amendment along that line arises from the fact that, beginning on line 1 of page 30, it is provided that such repeal, however, shall not affect any act done or "any right accrued," and so forth. It might be claimed that those who had been given licenses had acquired a right that would continue, and that is not the purpose of the committee; in other words, we do not propose to have any rights to broadcasting licenses continue. It is not only stated in the bill, but it is the spirit of the bill, that there shall be no vested rights in these licenses or in the wave lengths that are assigned to licensees from time to time. It occurs to me that the amendment which I offer is the only amendment that clearly meets the situation.

The CHAIRMAN. The question first will be taken upon the amendment to the amendment in the nature of a substitute offered by the gentleman from Tennessee. The question is on agreeing to the substitute.

The question was taken; and on a division (demanded by Mr. DAVIS) there were—ayes 45, noes 23.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment of the gentleman from New Jersey, as amended by the substitute of the gentleman from Tennessee.

The amendment was agreed to.

The Clerk concluded the reading of the bill.

Mr. SCOTT. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MADDEN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 9971, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. SCOTT. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

Mr. BLANTON. Mr. Speaker, now that the previous question has been ordered, I make the point of order that there is no quorum present.

The SPEAKER. Will the gentleman withhold that for a moment?

Mr. BLANTON. Certainly.

Mr. LEHLBACH. Mr. Speaker, I ask unanimous consent to speak for a moment in order to notify the House that I intend to ask a separate vote upon the Blanton amendment, and I request the membership of the House to look at it in the RECORD and give it careful consideration.

LEAVE TO PRINT

Mr. SCOTT. Mr. Speaker, I ask unanimous consent that Members of the House be allowed five legislative days in which to extend their remarks in the RECORD upon the radio bill.

Mr. MADDEN. Just those who have spoken?

Mr. SCOTT. No. A number of gentlemen asked me for time and I dissuaded them on the suggestion that either three or five days would be given in which to extend their remarks. Some of those men have gone home.

The SPEAKER. The gentleman from Michigan asks unanimous consent that all Members have five legislative days within which to extend their remarks on the radio bill.

Mr. BLACK of Texas. Let it be understood that they must be the Member's own remarks, and that magazine articles and editorials be not inserted.

Mr. SCOTT. Mr. Speaker, I accept that suggestion.

The SPEAKER. Is there objection?

There was no objection.

RADIO COMMUNICATION

Mr. RAINEY. Mr. Speaker, I congratulate the committee. The bill we are considering has been most carefully worked out. But the necessity for this legislation, in my judgment, is not yet apparent; as this great new industry develops legislation will be necessary. The industry is as yet in its infancy. Its possibilities are limitless. Thirty-one years ago Marconi discovered the principle upon which radio communication is based. The development of his discovery in its applications was for a period of years exceedingly slow.

As late as the year 1912 the principal use of radio was for communication between ships on the sea, and between shore stations and ships. In that year there were approximately about 600 ships upon the seas equipped for radio communication, and only 60 shore stations. To-day 12,000 ships are equipped with radio apparatus and are warned from shore stations of approaching storms. Danger calls are heard by stations and by ships a thousand miles away, and when a signal of distress is sent out from a sinking ship the signal is heard and responded to by ships sailing in that particular area, and the sea is robbed of many of its terrors. To-day in the United States alone there are over 15,000 amateur stations. There are nearly 2,000 ship stations. There are 553 land stations and almost as many broadcasting stations. The congestion in the broadcasting field may soon make constructive legislation necessary.

WONDERS OF RADIO

To-day forces but little understood are sending across the seas a continuous stream of electric energy. Written matter and pictures are to-day transferred, and one great company—the Radio Corporation of America—we are told is to-day developing a radio adjustment which will soon make it possible for the farmer on a lonely farm to attach a little instrument to his radio set and go about his work on the farm, and when he comes back he will find recorded on a tape the markets, and the messages which have come during his absence. Possibilities of development are limitless.

INDUSTRY HIGHLY COMPETITIVE BUT CAPITAL MUST MOVE IN LARGE BLOCS

This great industry in this country is highly competitive. There are over 1,200 manufacturers manufacturing at the present time complete radio sets, as is shown by the reports of the Federal Trade Commission. The same reports show that there are now 1,000 manufacturers of tubes alone, and that there are 5,000 manufacturers of various radio parts. The Forest Co. alone at the present time is turning out 8,000 tubes every day. The total sales last year of radio equipment in the United States amounted to over $450,000,000. This great business is constantly increasing.

THE RADIO CORPORATION OF AMERICA

The Radio Corporation of America is sometimes referred to as the Radio Trust. This corporation is probably to-day the largest of the manufacturing and distributing corporations. Its sales last year amounted to $45,000,000, only one-tenth of the total sales of radio equipment in that year. There is there-

fore as yet no Radio Trust, and there is not likely to be a Radio Trust. The condition of the industry is too highly competitive to expect anything of that character.

The mere fact that a large amount of capital has been assembled by one organization does not furnish a reason for launching attacks at that particular organization. It was the Radio Corporation of America which was able on account of the powerful equipment it has installed, to make possible the conversations across the Atlantic Ocean between New York and London several days ago by wireless, which continued for four hours of time. Conversation across the Atlantic Ocean through the large sending and receiving stations of this company was as easily conducted as if the participants had been only a few miles apart. We must expect in a development of this wonder industry, the accumulation of capital in large blocks. Only in this way can its development proceed as quickly as the nations of the world are demanding that it shall proceed.

THE OMITTED SECTION 4

The bill which was first reported out on this subject from the committee, at this session (H. R. 9108), contained a section which was numbered four, and which was omitted from the bill we are now considering. A point of order was made against an attempt to insert it in the present bill. The point of order was sustained, I think, properly. The section clearly was not germane. For information, I herewith reproduce the section in question.

SEC. 4. It shall be unlawful for any person, firm, company, or corporation, in any manner or by any means, (a) to send or carry, or to cause to be sent or carried, from one State, Territory, or possession of the United States or the District of Columbia to any other State, Territory, or possession of the United States; or (b) to bring, or to cause to be brought, into the United States or into any of its Territories or possessions from any foreign country, any radio vacuum tubes or other radio apparatus or any of the parts of either, whether patented or unpatented, accompanied or then or at any time affected or impressed by or with any condition, agreement, instruction, obligation, or limitation, the purpose and/or effect of which is to fix the price at which the purchaser may resell the same, or to prohibit or restrict the parties by whom or the purposes for which said tubes and apparatus or the parts thereof may be used.

Attempts will probably be made in the future to secure legislation along the lines suggested in this amendment. The amendment, it will be noted, principally attempts to prevent a fixing of prices at which the purchasers may resell any radio apparatus. It does not appear to me that in the present highly competitive condition of this industry legislation of this kind is necessary. The greatest industry we have is the automobile industry. It has developed in a comparatively few years until to-day we manufacture over 90 per cent of all the automobiles manufactured in all the world, and we consume even a larger percentage of the world's manufacture of automobiles than we produce.

The automobile industry of the United States is the greatest industry the world has ever seen in all the centuries. It has been highly competitive at every stage of its development and is still highly competitive, and there never has been any legislation attempted to prevent price fixing. Every automobile manufacturing company has a fixed selling price at its factory, and the purchaser pays that price plus transfer charges to place of delivery, or he may call himself at the manufacturing plant and drive away his car; and many thousand purchasers do that every day. The radio industry of the United States in the next decade may even rival in its development our automobile industry. It ought to have the same opportunities for development that we have given our automobile industry, and the same absence of price-fixing legislation. Our automobiles are cheap enough. Consumers can get cars to suit almost any income.

THE PRINCIPAL OBJECTION TO THE SECTION

The principal objection, however, from my viewpoint, to section 4 is contained in the last three or four lines of the section. The attempt here is to prevent the transportation in interstate commerce, and so forth, of any radio apparatus impressed with any agreement, and so forth, by which the purchasers reselling the same may restrict the use of the tubes or apparatus or the parts thereof. If such legislation as this is passed it will put out of business some of the largest radio manufacturers. There are many patents used in the manufacture of radio tubes and parts. I do not know how many patents, but in order to manufacture the best radio sets it has become necessary for some of the manufacturers to assemble and to use more than one patent.

The Radio Corporation of America, I am advised, uses in the sets it manufactures and sends out four basic patents which it does not own. If it owned these four basic patents, there might be some basis for the charge that this great corporation is either a trust or might soon become a trust. It, however, does not own them. It merely leases them, and the conditions of the leases into which it has entered require the Radio Corporation of America to sell its sets "impressed" with the condition that the sets shall not be used for certain purposes, the collection of tolls, and so forth, on messages sent out. There are probably other radio-manufacturing corporations which have leased patents which probably go out impressed also with conditions. No radio corporation or combination has become big enough and important enough to control all these basic patents. Legislation of this character would put out of business the Radio Corporation of America and perhaps other great manufacturing corporations and would deprive thousands of people of the pleasure and enjoyment they now get out of their receiving sets. It might accomplish this until a real radio trust were formed which might combine, if it is possible to do so, all of these basic patents.

The character of the legislation contemplated in the above section 4, it seems to me, is indeed most dangerous to the rapidly developing radio industry of the United States.

Mr. HALL of Indiana. Mr. Speaker, I have for a long time been interested in the subject of radio and its possibilities. I have read the hearings before the committee and have listened attentively to the debates before the committee upon House bill 5589. I am convinced that this is an important piece of legislation and the beginning of the regulation and direction of a great industry. I have the greatest of confidence in the wisdom and honesty of the present Secretary of Commerce, in whose hands is lodged the carrying out of the provisions of this bill. The importance of this legislation can only be characterized in terms of future development.

It is hard for us to conceive the immense growth of this new means of communication. In a period of 31 years it has grown from an invention to an industry affecting a large proportion of our population. Imagination does not allow us to consider just what developments will take place in radio during the next 30-year period, but we can learn what is taking place now and meet the situation of the present with legislation that will enable the new developments to become a reality.

It was in 1912 that our present law became effective in the regulation of the radio. There were then but 20 broadcasting stations operated by the Marconi Co. of America to send and receive ship signals for some 200 ships at sea. To-day we have over 500 commercial broadcasting stations other than those engaged in maritime operations and over 15,000 stations for broadcasting operated by amateurs. With this tremendous growth the efficiency and the good that can be accomplished by this new communication has broken down and the beneficial results are hampered.

In order to get a clear understanding of the rapid developments of radio, allow me to call your attention to the history of radio development. It has taken the different inventors 60 years to perfect a system of transmission of sound without wire and through the air. Marconi applied in England for a patent in 1896. He was the first to commercialize radio. The first company organized for the purpose of combining the various patents in order to use this as a commercial basis was in 1897.

Marconi began communicating in different ways, and finally he erected a station which was successful in securing communications for a distance of 14½ miles. Further developments made it possible for him to get in touch with ships at sea. This was continued until nearly every navy in the world is compelled by law to carry a radio apparatus. Marconi then decided that transoceanic communication was possible, and so when he was finally ready to make the test he came to the United States and from a balloon in Newfoundland listened for radio signals across the Atlantic. His test was successful.

With dreams for a world-wide control of the radio, Marconi was buying up all patents on this device that he could find. However, the General Electric Co. of the United States had in their hands a very important patent which they refused to sell to Marconi for purely patriotic reasons. As the interest and the possibilities of radio increased, the General Electric Co. formed a company with three other corporations who owned important patents. This firm, known as the Radio Corporation, places the United States foremost in this field with the greatest radio communication system in the world.

This legislation in question is not to create a monopoly. It is not legislation to stifle competition, but is a piece of legislation for the good of the 5,000,000 or more people who have

invested in radio sets to receive the benefit and good the opportunity afforded by this invention gives them.

It seems to me that Secretary Hoover has summed up this situation wisely in his appearance before the committee at the hearings on this bill. I quote from him this statement:

Now the primary condition that makes legislation necessary is the congestion in broadcasting. That situation has been existent for some time. I have hoped that natural laws, working with scientific and mechanical advance, would themselves solve the problem without legislative intervention, but such has not been the case and we are confronted with some sort of conclusion in the matter.

The desire to broadcast seems to become daily more widespread, the demand for licenses has steadily increased, and we have to-day more powerful stations in operation and more applications that can not be granted than ever before. The law has imposed the duty of providing for every applicant, so far as possible, with the result that we now have too much crowding together, unscientific geographical distribution, overlapping, and confusion. The interference between stations has become so great as to very greatly minimize the whole value of the service.

The radio stations in the country to-day fall into three classes. There are 15,111 amateurs, there are 1,901 ships, there are 553 land stations, and there are 536 broadcasting stations. That makes a total of 18,096 stations. But as most of these stations use wave lengths outside of what is known as the broadcast band the principal administrative difficulty and the principal problem of legislation lies in the broadcasting class.

The 536 broadcasting stations must operate, so far as we know the art now, on a total of 89 wave lengths. There are no more wave lengths in that band. It is simply a physical fact, and many of these wave lengths are below effective use in this number of 89, or below practicable use. No two stations can operate at the same time in the same vicinity on the same wave length, and there must be a separation between them. Our problem has been to try to divide these 89 wave lengths amongst these 536 stations, which means an average of over 6 stations for each wave length. Now, a satisfactory division has been a mathematical impossibility, and it has only been a time division, by power limitation, and by geographical separation, and other expedients that we have been able to preserve any order at all in the ether. And there are now 250 applications for new stations in the department. If they are allowed and the number thereby increased nearly 50 per cent, the whole broadcasting service of the United States will be effectively destroyed. From the viewpoint of public service, we need fewer stations rather than more, and the present bill permits the correction of this.

Under present conditions, the Secretary is powerless to remedy this situation. He now has the power to license any station, but he does not have the power to refuse the license. As we have been informed, it was the decision of the Court of Appeals of the District of Columbia that the Secretary of Commerce must issue the license. There is for these reasons no means other than this additional legislation whereby the present abuses can be corrected and the present stage of usage maintained.

As time goes on this present legislation may not be necessary or adequate. With new improvements being made each day, new legislation might be necessary most any time. But if we desire to consider things constructively, and if we desire to benefit those who are users of this new service, we must impose some restrictions to eliminate the nonessential for the benefit of the majority.

Seldom do we find a proposed bill in Congress meeting with more unanimous approval than we do this particular one by the gentleman from Maine. It is already in the RECORD that it has the indorsement of the radio manufacturers, the organization of private individuals who operate their own receiving stations, the governmental departments using radio officially, and even the broadcasting stations themselves. If this passes, we will have a foundation laid for the greatest good that can be derived from this invention at the present time, thereby creating a means for future developments to logically come about. It is my intention to support such a measure for these beneficial reasons.

CRUDE RUBBER

Mr. NEWTON of Minnesota. Mr. Speaker, I desire to submit a report on the crude rubber investigation from the Committee on Interstate and Foreign Commerce.

Mr. GARRETT of Tennessee. Does the report call for action of any sort?

Mr. NEWTON of Minnesota. I do not know that it can be said that it calls for any specific action. There are a number of recommendations and conclusions in the report. The original resolution called for a report from the committee either in whole or in part at any time.

Mr. GARRETT of Tennessee. I think the usual practice is to transmit it through the basket; however, I have no objection.

Mr. NEWTON of Minnesota. In view of the fact there is considerable interest in the report, I took occasion to submit it from the floor.

The SPEAKER. Referred to the calendar and ordered printed with illustrations.

MUSCLE SHOALS

The SPEAKER. Pursuant to the provisions of House Concurrent Resolution No. 4, the Chair appoints Messrs. MORIN, JAMES, and QUIN as members of the joint committee to conduct negotiations for leasing Muscle Shoals.

Mr. UPSHAW. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. The gentleman from Georgia asks unanimous consent to address the House for three minutes. Is there objection?

Mr. McLAUGHLIN of Michigan. Reserving the right to object, to-day?

Mr. UPSHAW. I think it will only take a minute and a half.

Mr. McLAUGHLIN of Michigan. I object.

The SPEAKER. Objection is heard.

Mr. COOPER of Wisconsin. Mr. Speaker, I ask leave to revise and extend my remarks.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. UPSHAW. May I ask the gentleman to withdraw his objection for an explanation?

Mr. McLAUGHLIN of Michigan. I withdraw the objection. Is it on the subject——

Mr. BEGG. Mr. Speaker, it is after 6 o'clock, and we have been here since 12 o'clock this morning and I think it is time to go home, so I am forced to object.

The SPEAKER. Objection is heard.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted—

To Mr. DOYLE, for four days, on account of important business.

To Mr. SPROUL of Illinois (on request of Mr. MADDEN), for 15 days, on account of urgent business.

REFERENCE OF A BILL

The SPEAKER. The Chair desires to state that the bill (H. R. 9965) to authorize the construction of a memorial building at or near the battle field of New Orleans was referred to the Committee on the Library. The Chair is informed that both chairmen agree that it be referred to the Committee on Military Affairs. Without objection, the change will be made.

There was no objection.

EXTENSION OF REMARKS

Mr. UPSHAW. After a conference I ask unanimous consent to extend my remarks in the RECORD by printing six brief replies from Atlanta protesting against the letter read by the gentleman from Massachusetts [Mr. TINKHAM] about conditions prevailing in Atlanta.

The SPEAKER. Is there objection?

Mr. BLACK of New York. Mr. Speaker, in the absence of the gentleman from Massachusetts I feel constrained to object.

Mr. UPSHAW. He and I have an understanding——

Mr. BLACK of New York. I object on my own account.

The SPEAKER. Objection is heard.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 6374. An act to authorize the employment of consulting engineers on plans and specifications of the Coolidge Dam; and

S. 1430. An act to establish a board of public welfare in and for the District of Columbia, to determine its functions, and for other purposes.

ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 5 minutes p. m.) the House adjourned until Monday, March 15, 1926, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for March 15, 1926, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON AGRICULTURE

(10 a. m.)

Agriculture relief legislation.

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

(10.30 a. m.)

To amend and supplement the merchant marine act of 1920 and the shipping act of 1916 (H. R. 8052 and H. R. 5369).

To provide for the operation and disposition of merchant vessels of the United States Shipping Board Emergency Fleet Corporation (H. R. 5395).

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To provide for the equalization of promotion of officers of the staff corps of the Navy with officers of the line (H. R. 7181).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. ROY G. FITZGERALD: Committee on World War Veterans' Legislation. H. R. 4548. A bill making eligible for retirement under certain conditions officers and former officers of the World War, other than officers of the Regular Army, who incurred physical disability in line of duty while in the service of the United States during the World War; without amendment (Rept. No. 536). Referred to the Committee of the Whole House on the state of the Union.

Mr. SMITH: Committee on Irrigation and Reclamation. S. 1170. An act to provide for the appointment of a commissioner of reclamation, and for other purposes; without amendment (Rept. No. 549). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 431. A bill providing for the conveyance of certain land to the city of Boise, Idaho, and from the city of Boise, Idaho, to the United States; with amendment (Rept. No. 553). Referred to the Committee of the Whole House on the state of the Union.

Mr. GREEN of Iowa: Committee on Ways and Means. H. R. 10277. A bill to amend the World War adjusted compensation act; without amendment (Rept. No. 554). Referred to the Committee of the Whole House on the state of the Union.

Mr. NEWTON of Minnesota: Committee on Interstate and Foreign Commerce. Report on crude rubber, coffee, etc., under H. Res. 59; without amendment (Rept. No. 555). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. SABATH: Committee on Claims. H. R. 9938. A bill for the relief of Frank A. Bartling; without amendment (Rept. No. 547). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. H. R. 8602. A bill for the relief of Hewson L. Peeke; with amendment (Rept. No. 548). Referred to the Committee of the Whole House.

Mr. STEPHENS: Committee on Naval Affairs. H. R. 5085. A bill to remove the charge of desertion from and correct the naval record of Louis Nemec, otherwise known as Louis Nemeck; without amendment (Rept. No. 537). Referred to the Committee of the Whole House.

Mr. DARROW: Committee on Naval Affairs. H. R. 10238. A bill for the relief of Josiah Ogden Hoffman; without amendment (Rept. No. 538). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. S. 37. An act for the relief of First Lieut. Harry L. Rogers, jr.; with amendment (Rept. No. 539). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. S. 547. An act for the relief of James W. Laxson, without amendment (Rept. No. 540). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. S. 1131. An act for the relief of James Doherty; without amendment (Rept. No. 541). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. S. 2993. An act to allow credits in the accounts of certain disbursing officers of the Department of the Interior; without amendment (Rept. No. 542). Referred to the Committee of the Whole House.

Mr. JOHNSON of Illinois: Committee on Claims. H. R. 912. A bill to authorize the Secretary of the Treasury to reimburse Capt. George G. Seibels, United States Navy, the sum of $170, money stolen belonging to the United States from the said Capt. George G. Seibels while in the discharge of his duties and paid into the Treasury of the United States by him; with amendment (Rept. No. 543). Referred to the Committee of the Whole House.

Mr. THOMAS: Committee on Claims. H. R. 1538. A bill for the relief of John Milton Pew; with amendment (Rept. No. 544). Referred to the Committee of the Whole House.

Mr. MORROW: Committee on Claims. H. R. 4677. A bill for the relief of the Carroll Motor Co.; without amendment (Rept. No. 545). Referred to the Committee of the Whole House.

Mr. CARPENTER: Committee on Claims. H. R. 8345. A bill for the relief of Crane Co.; without amendment (Rept. No. 546). Referred to the Committee of the Whole House.

Mr. FULLER: Committee on Invalid Pensions. H. R. 10314. A bill granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; without amendment (Rept. No. 550). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. H. R. 4258. A bill to credit the accounts of James Hawkins, special disbursing agent, Department of Labor; without amendment (Rept. No. 551). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. H. R. 10160. A bill for the relief of John Rooks; without amendment (Rept. No. 552). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LANKFORD: A bill (H. R. 10311) to secure Sunday as a day of rest in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MAGEE of Pennsylvania: A bill (H. R. 10312) to authorize the disposition of lands no longer needed for naval purposes; to the Committee on Naval Affairs.

By Mr. MOORE of Ohio: A bill (H. R. 10313) to authorize a change in postage on books in circulation to or from certain public libraries; to the Committee on the Post Office and Post Roads.

By Mr. FULLER: A bill (H. R. 10314) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; to the Committee of the Whole House.

By Mr. JACOBSTEIN: A bill (H. R. 10315) to regulate interstate and foreign commerce in coal and to promote the general welfare dependent on the use of coal, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STRONG of Kansas: A bill (H. R. 10316) to provide for the purchase of a site and the erection of a public building thereon at Marysville, in the State of Kansas; to the Committee on Public Buildings and Grounds.

By Mr. MILLER: A bill (H. R. 10317) authorizing the Secretary of the Navy to proceed with the establishment of and the construction of certain public works at the naval air station, Sand Point, Wash.; to the Committee on Naval Affairs.

By Mr. BACON: A bill (H. R. 10318) to establish a fish-hatching and fish-cultural station at Babylon or on Great South Bay, N. Y.; to the Committee on the Merchant Marine and Fisheries.

By Mr. SUMMERS of Washington: A bill (H. R. 10319) to authorize the erection of an addition to the United States Veterans' Bureau Hospital No. 85, at Walla Walla, Wash., and to authorize the appropriation therefor; to the Committee on World War Veterans' Legislation.

By Mr. McKEOWN: Joint resolution (H. J. Res. 200) to establish a trust fund for the Kiowa, Comanche, and Apache Indians in Oklahoma, and for other purposes; to the Committee on the Public Lands.

By Mr. McFADDEN: Resolution (H. Res. 171) providing for the consideration of the bill (H. R. 9958) to amend section 5219 of the Revised Statutes of the United States; to the Committee on Rules.

MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

By Mr. PATTERSON: Memorial of the Legislature of the State of New Jersey, favoring appropriation of sufficient funds to actively carry out provisions of the national defense act of 1920; to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIXLER: A bill (H. R. 10320) granting an increase of pension to Juliana A. Stanton; to the Committee on Pensions.

By Mr. BRAND of Georgia: A bill (H. R. 10321) granting a pension to Clyde R. Ayers; to the Committee on Pensions.

By Mr. BRAND of Ohio: A bill (H. R. 10322) granting a pension to Mary Emmer Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10323) granting an increase of pension to Arabella Dalie; to the Committee on Invalid Pensions.

By Mr. CANFIELD: A bill (H. R. 10324) granting a pension to Robert D. McCoy; to the Committee on Invalid Pensions.

By Mr. CORNING: A bill (H. R. 10325) granting an increase of pension to Sarah V. Adriance; to the Committee on Invalid Pensions.

By Mr. W. T. FITZGERALD: A bill (H. R. 10326) granting a pension to Nancy E. Dietz; to the Committee on Invalid Pensions.

By Mr. HALL of Indiana: A bill (H. R. 10327) granting a pension to Catalina Smith; to the Committee on Invalid Pensions.

By Mr. HARE: A bill (H. R. 10328) granting a pension to Lula Knotts; to the Committee on Pensions.

By Mr. HOCH: A bill (H. R. 10329) granting a pension to S. Florence Briggs; to the Committee on Invalid Pensions.

By Mr. HOOPER: A bill (H. R. 10330) granting six months' pay to Beatrice A. Gildart; to the Committee on Military Affairs.

By Mr. JACOBSTEIN: A bill (H. R. 10331) to reimburse Andrew O'Connor for expenses in connection with the placing of sculpture in the peace palace at The Hague; to the Committee on Appropriations.

By Mr. KINDRED: A bill (H. R. 10332) for the relief of Alonzo Campbell; to the Committee on World War Veterans' Legislation.

By Mr. LOZIER: A bill (H. R. 10333) granting an increase of pension to Susan F. Pardonner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10334) granting an increase of pension to Mary E. Shores; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10335) granting an increase of pension to Sarah E. Rice; to the Committee on Invalid Pensions.

By Mr. MAJOR: A bill (H. R. 10336) granting a pension to Thomas L. Hockensmith; to the Committee on Invalid Pensions.

By Mr. MENGES: A bill (H. R. 10337) granting an increase of pension to Margaret N. McAllister; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10338) granting an increase of pension to Mary A. Gardner; to the Committee on Invalid Pensions.

By Mr. MILLS: A bill (H. R. 10339) for the relief of the United States Maritime Corporation; to the Committee on Claims.

By Mr. NELSON of Missouri: A bill (H. R. 10340) granting an increase of pension to Parelee Moore; to the Committee on Pensions.

By Mr. PATTERSON: A bill (H. R. 10341) for the relief of Harry C. Saxton; to the Committee on Claims.

Also, a bill (H. R. 10342) to complete the military record of Jacob W. Starr; to the Committee on Military Affairs.

By Mr. PRATT: A bill (H. R. 10343) granting an increase of pension to Anna Mattoon; to the Committee on Invalid Pensions.

By Mr. REECE: A bill (H. R. 10344) granting an increase of pension to Christina Harbert; to the Committee on Invalid Pensions.

By Mr. SCHAFER: A bill (H. R. 10345) to credit Daniel Shay, of the crew of the U. S. S. *Yale*, with services performed; to the Committee on Pensions.

Also, a bill (H. R. 10346) to credit John Thomas Burns, of the crew of U. S. S. *Harvard*, with services performed; to the Committee on Pensions.

By Mr. SEGER: A bill (H. R. 10347) granting an increase of pension to Amelia Tucker Smith; to the Committee on Invalid Pensions.

By Mr. SIMMONS: A bill (H. R. 10348) granting an increase of pension to Fannie M. O'Linn; to the Committee on Invalid Pensions.

By Mr. THATCHER: A bill (H. R. 10349) granting an increase of pension to William Elbert Clark; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1221. By Mr. ACKERMAN: Petition of sundry citizens of New Jersey, supporting Senate bill 2841 and amendment No. 6741; to the Committee on Education.

1222. By Mr. BULWINKLE: Petition of F. E. Hankins, Rev. W. H. Armstrong, Rev. R. L. Carson, Rev. R. I. Klete, and other citizens of Mecklenburg and Burke Counties, N. C., protesting against the passage of House bills 7179 and 7822; to the Committee on the District of Columbia.

1223. By Mr. CARTER of California: Petition of the district legislative branch of the California Federation of Woman's Clubs, affirming belief in the Volstead Act; to the Committee on the Judiciary.

1224. Also, petition of the Board of Fish and Game Commissioners of the State of California, protesting against the passage of House bill 17 and Senate bill 2584; to the Committee on the Merchant Marine and Fisheries.

1225. Also, petition of Masters, Mates, and Pilots of the Pacific, opposing the abolishing or limiting of the powers of the United States Steamboat Inspection Service; to the Committee on the Merchant Marine and Fisheries.

1226. Also, petition of the San Francisco section of the American Society of Civil Engineers, indorsing House bill 6358, providing for an inventory of the water resources of the United States; to the Committee on Interstate and Foreign Commerce.

1227. Also, petition of Oakland Chapter No. 7, Disabled American Veterans of the World War, protesting against the use of the term "apparently cured" for arrested cases of tuberculosis; to the Committee on World War Veterans' Legislation.

1228. By Mr. ESLICK: Petition of Judge B. M. Grimes and others of Lewis County, Tenn., for early action and passage of House bill 8132, granting an increase of pension to Spanish-American War veterans, their widows, and minor children; to the Committee on Pensions.

1229. By Mr. FULLER: Petition of the National Council of Business Mail Users, asking certain changes in the present postal rates; to the Committee on the Post Office and Post Roads.

1230. Also, petition of the National Association of Credit Men, urging an increase in pay for Federal judges; to the Committee on the Judiciary.

1231. Also, petition of the New York Patent Law Association, urging support of House bill 7907; to the Committee on the Judiciary.

1232. Also, petition of the Disabled American Veterans of the World War, urging the passage of legislation for the relief of World War veterans in certain cases; to the Committee on World War Veterans' Legislation.

1233. Also, petition of the Chicago Shippers Conference Association with reference to a navigable channel from Chicago to New Orleans; to the Committee on Interstate and Foreign Commerce.

1234. Also, petition of various organizations urging support of House bill 7555; to the Committee on Interstate and Foreign Commerce.

1235. By Mr. GALLIVAN: Petition of Thomas Hunt, of Gaston, Snow, Saltonstall & Hunt, Shawmut Bank Building, Boston, Mass., recommending early and favorable consideration of House bill 7907, to increase salaries of Federal judges; to the Committee on the Judiciary.

1236. By Mr. GARBER: Petition by residents of the State of Oklahoma, protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

1237. By Mr. HOOPER: Resolutions of the Missionary Society of the First Baptist Church of Hillsdale, Mich., protesting against any modification of the Volstead law; to the Committee on the Judiciary.

1238. By Mrs. KAHN: Petition of the San Francisco section, American Society of Civil Engineers, in regard to House bill 6358, and requesting certain changes therein; to the Committee on Interstate and Foreign Commerce.

1239. Also, petition of United Veterans' Council, of San Francisco, Calif., urging an immediate investigation of persons who have obtained citizenship in the United States in a fraudulent manner; to the Committee on Immigration and Naturalization.

1240. By Mr. LAMPERT: Petition of citizens of Neenah, Wis., protesting against the passage of the so-called compulsory Sunday observance law; to the Committee on the District of Columbia.

1241. By Mr. LEAVITT, Resolution of the Woman's Club of Big Timber, Mont., favoring continuance of the provisions of the Sheppard-Towner maternity act; to the Committee on Interstate and Foreign Commerce.

1242. By Mr. MAGEE of New York: Petition of citizens of Onondaga County, N. Y., in favor of the Cramton bill; to the Committee on the Judiciary.

1243. By Mr. MAJOR: Petition of a number of citizens of Cole Camp, Mo., protesting against the passage of House bills 7179 and 7822, or any other national religious legislation which may be pending; to the Committee on the District of Columbia.

1244. By Mr. MANLOVE: Petition of 36 residents of Joplin, Jasper County, Mo., protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

1245. By Mr. MICHENER: Petition of residents of the city of Adrian, Lenawee County, Mich., against compulsory Sunday observance, etc.; to the Committee on the District of Columbia.

1246. By Mr. O'CONNELL of New York: Petition of the Associated Musicians of Greater New York, Local 802, A. F. of M., favoring legislation which will change or amend the Volstead Act, so that the use of light wines and beer shall be permitted; to the Committee on the Judiciary.

1247. Also, petition of the Captain Malcolm A. Rafferty Camp, United Spanish War Veterans, of Long Island City, N. Y., favoring the passage of House bill 8132, Knutson Spanish War pension bill; to the Committee on Pensions.

1248. Also, petition of the National Association of Credit Men of New York City, favoring the passage of the increase salary bill for Federal judges; to the Committee on the Judiciary.

1249. Also, petition of the Bar Association of Baltimore City, favoring the passage of House bill 8383, for an additional Federal judge for the district of Maryland; to the Committee on the Judiciary.

1250. Also, petition of the Brooklyn Bureau of Charities of Brooklyn, N. Y., favoring the passage of the Cummins-Graham compensation bill (S. 3170, H. R. 9498); to the Committee on the Judiciary.

1251. By Mr. PATTERSON: Resolution of the National Guard Association of New Jersey, favoring adequate appropriations for the organization, uniforming, equipping, training, and payment of additional number of officers and enlisted men; to the Committee on Military Affairs.

1252. By Mr. PEAVEY: Petition of residents of Montreal, Hurley, Spooner, Danbury, and Superior, Wis., protesting against the enactment of House bills 7179 and 7822; also, telegrams and letters protesting against the enactment of House bills 7179 and 7822; to the Committee on the District of Columbia.

1253. By Mr. REECE: Petition of citizens of Greene County, Tenn., opposing House bills 7179 and 7822, compulsory Sunday observance; to the Committee on the District of Columbia.

1254. By Mr. TILSON: Petition of William A. Kennedy and others, New Haven, Conn., protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

1255. By Mr. YATES: Petition of Steele-Wedeles Co., wholesale grocers, of Chicago, by T. P. Hinchman, superintendent of coffee department, protesting against Senate bill 3052, proposing certain regulations in the labeling of foreign products packed in the United States; to the Committee on Agriculture.

1256. Also, petition of the National Cooperative Milk Producers' Federation, of Washington, D. C., protesting against any provision in the independent offices appropriation bill for the United States Tariff Commission, and urging that said commission be abolished; to the Committee on Appropriations.

SENATE

MONDAY, *March 15, 1926*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

O God, Thou hast made us for Thyself and we can not rest except we rest in Thee. Enable us to appreciate that truth and apply it to our daily conduct, that as we think and as we do we may honor Thee, having Thee supreme in our endeavors to glorify Thy name; and that in every national as well as every personal responsibility we shall find access constantly to the guidance of Thy grace. Hear us, for Jesus' sake. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of the legislative day of Thursday last, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the Speaker of the House had affixed his signature to the following enrolled bills, and they were thereupon signed by the Vice President:

S. 1430. An act to establish a board of public welfare in and for the District of Columbia, to determine its functions, and for other purposes; and

H. R. 6374. An act to authorize the employment of consulting engineers on plans and specifications of the Coolidge Dam.

CALL OF THE ROLL

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Ernst	Kendrick	Reed, Mo.
Bayard	Fernald	Keyes	Reed, Pa.
Bingham	Ferris	King	Robinson, Ark.
Blease	Fess	La Follette	Robinson, Ind.
Borah	Fletcher	Lenroot	Sackett
Bratton	Frazier	McKellar	Sheppard
Brookhart	George	McLean	Shipstead
Broussard	Gerry	McNary	Simmons
Bruce	Gillett	Mayfield	Smoot
Butler	Glass	Means	Stanfield
Cameron	Goff	Metcalf	Stephens
Capper	Gooding	Neely	Swanson
Caraway	Greene	Norbeck	Trammell
Copeland	Hale	Norris	Tyson
Couzens	Harreld	Nye	Wadsworth
Cummins	Harris	Oddie	Walsh
Dale	Harrison	Overman	Warren
Deneen	Heflin	Phipps	Watson
Dill	Howell	Pine	Wheeler
Edge	Johnson	Pittman	Williams
Edwards	Jones, Wash.	Ransdell	Willis

The VICE PRESIDENT. Eighty-four Senators having answered to their names, a quorum is present.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the petition of the League of Women Voters of the Territory of Hawaii, praying for the reapportionment of members of the Senate and House of Representatives of the Territory of Hawaii, which was referred to the Committee on Territories and Insular Possessions.

Mr. FERRIS presented a petition of sundry citizens of Oakland County, Mich., praying for the speedy completion of the Coolidge Dam on the Gila River, in Arizona, which was referred to the Committee on Commerce.

He also presented memorials of sundry citizens of Grand Rapids, Mich., remonstrating against the passage of the bill (H. R. 102) to provide for the registration of aliens, and for other purposes, which were referred to the Committee on Immigration.

Mr. SIMMONS presented telegrams in the nature of memorials from W. L. Thornton, jr., of Wilson; Fred N. Tate, of High Point; the Chadwick Hoskins Co., of Charlotte; and the traffic bureau, Chamber of Commerce, of High Point, in the State of North Carolina, protesting against the passage of the so-called Gooding long and short haul bill, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Vance County, N. C., remonstrating against acceptance by the Senate of the terms of the Italian debt settlement, which was ordered to lie on the table.

Mr. TRAMMELL. Mr. President, I send to the desk and ask to have printed in the RECORD and referred to the Committee on Agriculture and Forestry resolutions adopted by the Chamber of Commerce of the city of St. Augustine, Fla., protesting against the proposed change in the plan of designation of national highways. It seems that there is in contemplation a change of plan to that of indicating the highways by numbers instead of maintaining names as at present. The resolutions are in protest against any change of that character.

There being no objection, the resolutions were referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

Whereas recent recommendations of the joint board of interstate highways at Washington request the elimination of names of all present national highways, substituting therefor numbers; and

Whereas in certain cases this system will not provide a given mark the entire route of the highway, but allow several different sections to be instituted, which will without doubt prove confusing to the travel; and

Whereas a great number of motorists are now familiar with the names of the highways and look for these names at all times: Therefore be it

Resolved by the board of directors of the St. Augustine Chamber of Commerce, That the Florida Senators and Representatives in Congress